
APPENDIX A.

COMMENTS ON THE DEIR AND RESPONSES TO COMMENTS

Comment Letters

Responses to Comments

Memorandum to John Kemp, California Department of Fish & Game Letter dated January 20, 2005, and Transcript of Public Scoping Meeting, December 16, 2004

COMMENT LETTERS

State of California—Health and Human Services Agency
Department of Health Services



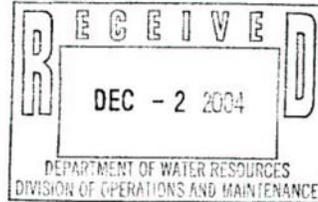
California
Department of
Health Services
SANDRA SHEWRY
Director



ARNOLD SCHWARZENEGGER
Governor

November 24, 2004

Dr. Eva Begley
Department of Water Resources
1416 Ninth Street, Room 620
Sacramento, CA 95814



Dear Dr. Begley:

SCH# 2004051123: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE SIMULATION OF NATURAL FLOWS IN MIDDLE PIRU CREEK)

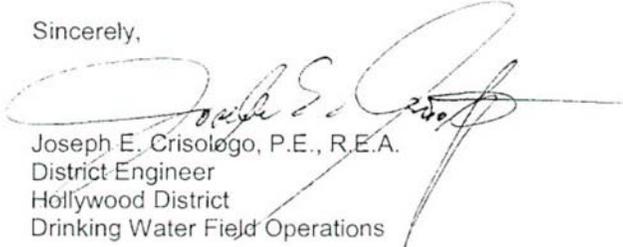
Thank you for the opportunity to review and comment on the subject document.

As the California Department of Water Resources' (DWR) Vista del Lago Visitors Center (Center) draws raw surface water from the Pyramid Lake for treatment and distribution to the Center's visitors and occupants, please inform the DWR personnel in-charge of the Center and/or surface water treatment plant about the simulation project and schedule of activities. Although no or minimal impact on the plant's raw water intake is anticipated, it would be prudent to alert DWR Center/treatment plant personnel about the project and schedule in order for these personnel to anticipate any change(s) to raw surface water quality.

1

If you have any questions, please contact Mr. Ric M. Roda, P.E., at (213) 580-3124.

Sincerely,


Joseph E. Crisológo, P.E., R.E.A.
District Engineer
Hollywood District
Drinking Water Field Operations

cc. See next page



Do your part to help California save energy. To learn more about saving energy, visit the following web site:
www.consumerenergycenter.org/flex/index.html

Southern California Drinking Water Field Operations Branch, Los Angeles Region
1449 West Temple St., Room 202, Los Angeles, CA 90026
Telephone: (213)580-5723 Fax: (213)580-5711
Internet Address: www.dhs.ca.gov/ps/ddwem/

Dr. Eva Begley
Page 2
November 24, 2004

cc: Mr. Scott Morgan
State Clearinghouse
P. O. Box 3044
Sacramento, CA 95812-3044

Mr. John Kemp, Water Quality Supervisor
Southern Field Division
California Department of Water Resources
34534 116th Street E.
P. O. Box 1187
Pearlblossom, CA 93553

SDWSRF-Environmental Coordinator
Drinking Water Program
Technical Program Branch
1616 Capitol Avenue, MS 7416, P.O. Box 997413
Sacramento, CA 95899-7413

ENVIRONMENTAL DOCUMENT ROUTE SLIP



DIVISION OF DRINKING WATER AND ENVIRONMENTAL MANAGEMENT

DWFOB - Northern Region
Attn: Brian Kinney
1616 Capital Avenue MS 7407
Sacramento, CA 95899-7413
Date Rec'd Date Forwarded

DWFOB - Los Angeles Region
Attn: Jeff O' Keefe
1449 West Temple Street, Room 202
Los Angeles, CA 90026
Date Rec'd 11-23-04 Date Forwarded

DWFOB - North Coastal Region
Attn: Cathy Ma
2151 Berkeley Way, Room 458
Berkeley, CA 94704
Date Rec'd Date Forwarded

DWFOB - Central California Region
Attn: Rich Haberman
1040 East Herndon Avenue, Suite 205
Fresno, CA 93720-3158
Date Rec'd Date Forwarded

DWFOB - South Coastal Region
Attn: John Curphey
1180 Eugenia Place, Suite 200
Carpinteria, CA 93013
Date Rec'd Date Forwarded

DWFOB - Sonoma/Mendocino District
Attn: Janice Oakley/Bruce Burton
50 D Street, Suite 200
Santa Rosa, CA 95404-4752
Date Rec'd Date Forwarded

EMB - Institution Program
Attn: Glenn Takeoka
1616 Capital Avenue MS 7404
Sacramento, CA 95899-7413
Date Rec'd Date Forwarded

EMB - US DOD
Attn: Darice Bailey
1616 Capital Avenue MS 7407
Sacramento, CA 95899-7413
Date Rec'd Date Forwarded

FOOD, DRUG & RADIATION SAFETY DIVISION

Radiological Health Branch
Attn: Ed Bailey
1616 Capital Avenue MS
Sacramento, CA 95899-7413
Date Rec'd Date Forwarded

Division:
Contact Name:
Address:
Date Rec'd Date Forwarded

From: SDWSRF-Environmental Coordinator
Drinking Water Program
Technical Programs Branch
1616 Capitol Avenue, MS 7416, P.O. Box 997413
Sacramento, CA 95899-7413

Date Received in SDWSRF: 11/19/04
SCH Number: 2004051123
Title: Simulation of Natural Flows in Middle River Creek
Due Date: 12/22/04

Please send ALL comments directly to the State Clearinghouse (SCH), P.O. Box 3044, Sacramento, CA 95812-3044, and a copy to SDWSRF-Environmental Coordinator with this slip attached over the comment page. The SCH will also accept comments by fax at (916) 323-3018. Please forward the documents AS SOON AS POSSIBLE to the next reviewer to assure that due dates are met and return all Environmental Document Route Slips to SDWSRF-Environmental Coordinator. If you have any questions or CANNOT meet the due date, please call Christopher Stewart at (916) 449-5636.

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P. O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
 For Hand Delivery: Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2004051123

Project Title: Simulation of Natural Flows in Middle Piru Creek
Lead Agency: California Department of Water Resources **Contact Person:** Dr. Eva Begley
Mailing Address: 1416 Ninth Street, Room 620 **Phone:** (916) 653 5551
City: Sacramento **Zip:** 95814 **County:** Sacramento

Project Location:
County: Los Angeles & Ventura **City/Nearest Community:** Castaic
Cross Streets: _____ **Zip Code:** _____
Assessor's Parcel No.: _____ **Section:** _____ **Twp.:** _____ **Range:** _____ **Base:** _____
Within 2 Miles: State Hwy #: 1-5 **Waterway:** Piru Creek
Airports: _____ **Railways:** _____ **Schools:** _____

Document Type:
 CEQA: NOP Draft EIR NOI Joint Document
 Early Cons Supplemental/Subsequent EIR EA Final Document
 Neg Dec (Prior SCH No.) Draft EIS Other
 MH Neg Dec Other FONSI

RECEIVED
 NOV 8 2004
 STATE CLEARINGHOUSE

Local Action Type:
 General Plan Update Specific Plan Annexation
 General Plan Amendment Master Plan Prezone Redevelopment
 General Plan Element Planned Unit Development Use Permit Coastal Permit
 Community Plan Site Plan Land Division (Subdivision, etc.) Other: No local action required

Development Type:
 Residential: Units _____ Acres _____ Water Facilities: Type _____ MGD
 Office: Sq. ft. _____ Acres _____ Employees _____ Transportation: Type _____
 Commercial: Sq. ft. _____ Acres _____ Employees _____ Mining: Mineral _____
 Industrial: Sq. ft. _____ Acres _____ Employees _____ Power: Type _____ MW
 Educational Waste Treatment: Type _____ MGD
 Recreational Hazardous Waste: Type _____
Total Acres (approx.): _____ Other: Flow modifications

Project Issues Discussed in Document:
 Aesthetic/Visual Fiscal Recreation Parks Vegetation
 Agricultural Land Flood Plain/Flooding Schools/Universities Water Quality
 Air Quality Forest Land/Fire Hazard Septic Systems Water Supply/Groundwater
 Archeological/Historical Geologic/Seismic Sewer Capacity Wetland/Riparian
 Biological Resources Minerals Soil Erosion/Compaction/Grading Wildlife
 Coastal Zone Noise Solid Waste Growth Inducing
 Drainage/Absorption Population/Housing Balance Toxic/Hazardous Land Use
 Economic Jobs Public Services/Facilities Traffic/Circulation

Present Land Use/Zoning/General Plan Designation:
 The proposed project is located on the jurisdictional boundary between Los Padres and Angeles National Forests; the project will be administered by Angeles National Forest.

Project Description: (please use a separate page if necessary)
 The California Department of Water Resources (CDWR) proposes implementation of modified water operations guidelines of Pyramid Dam to simulate the natural hydrology of middle Piru Creek to the extent operationally feasible and consistent with safety considerations. The primary objective of simulating the natural hydrological regime of middle Piru Creek is to avoid the incidental take (direct and indirect injury and mortality) of a federally listed species (*Bale californicus*) by State Water Project operations. A second objective of the proposed project is to allow State Water Project operations to be consistent with the Conservation District via middle Piru Creek to Lake Piru. See Attachment A for project details.

RECEIVED
 NOV 19 2004
 COHS DRINKING WATER PROGRAM
 HEADQUARTERS, SACRAMENTO

State Clearinghouse Contact: (916) 445-0613
 State Review Began: 11-3-2004
 SCH COMPLIANCE: 12-22-2004

Please note State Clearinghouse Number (SCH#) on all comments

SCH#: 2004051123

Please forward late comments directly to the Lead Agency

AQMD/APCD 3/1/19

(Resources: 11/13)

Project Sent to the following State Agencies

- | | |
|---|---|
| <input checked="" type="checkbox"/> Resources | State/Consumer Sves |
| <input type="checkbox"/> Routing & Waterways | General Services |
| <input type="checkbox"/> Coastal Comm | Cal EPA |
| <input type="checkbox"/> Colorado Rvr Bd | ARB - Airport Projects |
| <input type="checkbox"/> Conservation | ARB - Transportation Projects |
| <input checked="" type="checkbox"/> Fish & Game # 5 | ARB - Major Industrial Projects |
| <input type="checkbox"/> Delta Protection Comm | Integrated Waste Mgmt Bd |
| <input type="checkbox"/> Forestry & Fire Prot | SWRCB - Clean Wtr Prog |
| <input type="checkbox"/> Historic Preservation | SWRCB - Wtr Quality |
| <input checked="" type="checkbox"/> Parks & Rec | <input checked="" type="checkbox"/> SWRCB - Wtr Quality |
| <input type="checkbox"/> Reclamation Board | <input checked="" type="checkbox"/> Reg. WQCB # 4 |
| <input type="checkbox"/> Bay Cons & Dev Comm | Toxic Sub. Ctrl. CTC |
| <input checked="" type="checkbox"/> DWR | Yth/Adlt Corrections |
| <input type="checkbox"/> CES (Emergency Servs) | Corrections |
| Bus Transp Hou | Independent Comm |
| <input type="checkbox"/> Aeronautics | Energy Commission |
| <input type="checkbox"/> CHP | <input checked="" type="checkbox"/> NAHC |
| <input checked="" type="checkbox"/> Caltrans # 7 | Public Utilities Comm |
| <input type="checkbox"/> Trans Planning | Santa Monica Mts |
| <input type="checkbox"/> Housing & Com Dev | <input checked="" type="checkbox"/> State Lands Comm |
| <input type="checkbox"/> Food & Agriculture | Tabor Rgl Plan Agency |
| <input type="checkbox"/> Health Services | Other: _____ |



California Regional Water Quality Control Board
Los Angeles Region



Alan C. Lloyd, Ph.D.
Agency Secretary

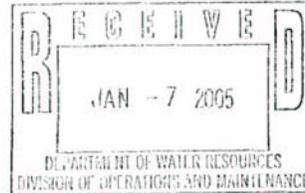
Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

January 6, 2005

Dr. Eva Begley
California Department of Water Resources
1416 Ninth Street, Room 620
Sacramento, CA 95814



SUBJECT: SCH# 2004051123
Simulation of Natural Flows in Piru Creek

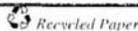
We appreciate the opportunity to comment on the CEQA documentation for the above-mentioned project. For your information a list of permitting requirements and Regional Board Contacts is provided in Attachment A hereto.

The project site lies in the Santa Clara River watershed that was listed as an impaired waterbody pursuant to Section 303 (d) of the Clean Water Act. Constituents causing impairments in the Santa Clara watershed include pesticides, nitrogen, salts, and coliform. The Los Angeles Regional Water Quality Control Board has developed Total Maximum Daily Loads (TMDLs) for nutrients and salts in the watershed as mandated by EPA. The Regional Board must carefully evaluate the potential impacts of new projects that may discharge to impaired waterbodies. In this case, a reduction in flows should alter the assimilative capacity of the waterbody, a value upon which allocations for pollutant loading are founded.

Our review of your documentation shows that it does not include information on how this project will alter the loading of these pollutants or the assimilative capacity in the watershed. Please provide the following additional information for the operational phases of the project.

- For each constituent listed above, please provide an estimate of the change concentration (ppb) and load (lbs/day) for the project. | 2
- Estimates the change in assimilative capacity of the Santa Clara River for the constituents listed above. | 3

California Environmental Protection Agency



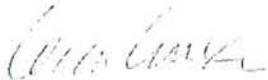
Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

January 6, 2005

- Estimates of the net change in cubic feet per second of groundwater and surface water contributions under historic drought conditions, and 10-year 50-year, and 100-year flood conditions. | 4

If you have any questions please call me at (213) 576-6683.

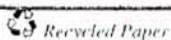
Sincerely,



Elizabeth Erickson
Associate Geologist, TMDL Unit
Los Angeles Regional Water Quality Control Board

EE
Attachments (1)
cc:
State Clearinghouse – (2004051123)
file

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

ATTACHMENT A

- ✓ If the proposed project will result in a **discharge of dredge or fill into a surface water** (including a dry streambed), and is subject to a **federal license or permit**, the project may require a *Section 401 Water Quality Certification*, or waiver of Waste Discharge Requirements. For further information, please contact:

Valerie Carrillo, Nonpoint Source Unit at (213) 576-6759.

- ✓ If the project involves **inland disposal of nonhazardous contaminated soils and materials**, the proposed project may be subject to *Waste Discharge Requirements*. For further information, please contact:

Rodney Nelson, Landfills Unit, at (213) 576-6719.

- ✓ If the overall project area is **larger than five acres**, the proposed project may be subject to the State Board's *General Construction Activity Storm Water Permit*. For further information, please contact:

Tracy Woods, Statewide General Construction Activity Storm Water Permits at (213) 576-6684.

- ✓ If the project involves a facility that is proposing to discharge storm water associated with **industrial activity** (e.g., manufacturing, recycling and transportation facilities, etc.), the facility may be subject to the State Board's *General Industrial Activities Storm Water Permit*. For further information, please contact:

Kristie Chung, Statewide General Industrial Storm Water Permits at (213) 576-6807.

- ✓ If the proposed project involves requirements for new development and construction pertaining to **municipal storm water programs**, please contact:

Xavier Swamikannu, Municipal Storm Water Permits, Los Angeles County at (213) 620-2094
Ejigu Solomon, Municipal Storm Water Permits, Ventura County at (213) 620-2237

- ✓ The proposed project also shall comply with the local regulations associated with the applicable **Regional Board stormwater permit**:

Los Angeles County and Co-permittees:
NPDES No. CAS004001
Waste Discharge Requirements Order No. 01-182.

Long Beach County and Co-permittees:
NPDES CAS004003
Waste Discharge Requirements Order No. 99-060.

Ventura County and Co-permittees:
NPDES No. CAS004002
Waste Discharge Requirements Order No. 00-108.

- ✓ If the proposed project involves any construction and/or groundwater **dewatering to be discharged to surface waters**, the project may be subject to *NPDES/Waste Discharge Requirements*. For further information, please contact:

Augustine Anijielo, General Permitting and Special Projects Unit at (213) 576-6657 (All Region 4 Watersheds).

- ✓ If the proposed project involves any construction and/or groundwater **dewatering to be discharged to land or groundwater**, the project may be subject to *Waste Discharge Requirements*. For further information, please contact:

Kwang-il Lee, Non-Chapter 15 Unit, at (213) 576-6666 (All Region 4 Watersheds).



DEPARTMENT OF FISH AND GAME

http://www.dfg.ca.gov
4949 Viewridge Avenue
San Diego, CA 92123
(858) 467 4201



December 29, 2004



Dr. Eva Begley
California Department of Water Resources
1416 North Street, Room 620
Sacramento, CA 95814

**Draft Environmental Impact Report for
Simulation of Natural Flows in Middle Piru Creek
SCH # 2004051123, Los Angeles County**

Dear Dr. Begley:

The Department of Fish and Game (Department) Habitat Conservation and Planning Division appreciates this opportunity to provide comments on the Draft Environmental Impact Report (DEIR), albeit slightly delayed because of the holiday period. The project proposal consists of modification of water operation guidelines at Pyramid Lake to simulate natural flows within the approximately 18 mile long middle Piru Creek. This modification was developed to avoid the incidental take (direct and indirect injury and mortality) of the federally endangered arroyo toad and to allow State Water Project water deliveries to United Water Conservation District via middle Piru Creek to Lake Piru.

The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (CEQA Section 15386) and pursuant to our authority as a Responsible Agency under the California Environmental Quality Act (CEQA) CEQA Section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (Fish and Game Code Section 2050 et seq) and Fish and Game Code Section 1600 et seq.:

Impacts to Special Status Species

1. Southwestern Pond Turtle- The DEIR states that the proposed project will not result in an adverse significant impact to southwestern pond turtle (SWPT) a California Species of Special Concern and that the project would in fact benefit SWPT. The DEIR states that the proposed project would result in the creation of isolated pools and low flow channels during periods of low flow which would reduce populations of exotic aquatic species which compete and prey upon SWPT.
 - a. The Department concurs with the conclusions made in the DEIR regarding project benefits to SWPT however there is a concern that the creation of isolated pools may concentrate SWPT into areas where they may be made more vulnerable to predation by humans. Isolated pools will most likely be targeted by the public for recreation (fishing, wading, etc.) to the detriment of SWPT if initial

numbers of turtles are low and recruitment levels (an unknown variable) are not adequate to sustain/increase this population in middle Piru Creek.

5, cont.

- b. The Department recommends that the number of SWPT be monitored within the project area to determine a baseline population level and age class composition prior to and during project implementation in order to measure the true benefits or detriments from the proposed project so that adaptive management measures may be implemented if necessary.

6

Impacts to Riparian Resources

1. Page 3-34, top paragraph, states that "existing sediment loads from upstream reaches of middle Piru Creek below Pyramid Dam and secondary sources including Agua Blanca Creek would probably provide the required granitic fines needed to maintain suitable arroyo toad breeding soils for many years to come in the southern reaches of middle Piru Creek". Page 3-72, last paragraph, of the DEIR states, "The increase in sediment transport capacity as a result of the proposed project, without a corresponding increase in sediment supply is expected to result in an increased rate of long-term degradation and to the long-term trend toward armoring of the streambed. Importation of sediment by truck to account for the deficit was investigated and determined to be impractical."

- a. The project appears to afford an initial benefit to arroyo toad and other native aquatic species with a gradual decline of habitat at some point in the future which in and of itself could result in the incremental loss of habitat of arroyo toad from Pyramid Dam releases flushing available limited sediment downstream into Lake Piru. The DEIR should discuss a long term monitoring program to document response of arroyo toad and other special status species populations as the result of the proposed project and discuss further mechanisms to facilitate sediment supply into the system if the long term management activities at Pyramid Dam are expected to degrade habitat within the Department's jurisdiction.

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- b. As stated above the proposed project may adversely impact areas of middle Piru Creek within Department jurisdiction. The Department requires a Streambed Alteration Agreement (SAA), pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant prior to any direct or indirect impact to a lake or stream bed, bank or channel or associated riparian resources. The Department's issuance of a SAA may be a project that is subject to CEQA. To facilitate our issuance of the Agreement when CEQA applies, the Department as a responsible agency under CEQA may consider the local jurisdiction's (lead agency) document for the project. To minimize additional requirements by the Department under CEQA the document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the Agreement. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources.

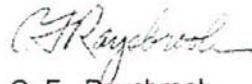
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In conclusion, the Department in principle supports the proposed project and the effort to create additional habitat for the arroyo toad and requests that the lead agency consider the Department's concerns regarding the project as a whole regarding SWPT impacts and long term impacts to sediment transport availability.

Dr. Eva Begley
December 29, 2004
Page 3 of 3

Thank you for this opportunity to provide comment. Questions regarding this letter and further coordination on these issues should be directed to Mr. Scott Harris, Associate Wildlife Biologist, at (626) 797-3170.

Sincerely,



C. F. Raysbrook
Regional Manager

cc: Department of Fish and Game
Ms. Morgan Wehtje
Mr. Scott Harris
Mr. Dwayne Maxwell
Ms. Betty Courtney
Mr. Maurice Cardenas
HCP-Chron

U.S. Fish and Wildlife Service
Mr. Creed Clayton
2493 Portola Rd., Ventura, CA 93003

State Clearinghouse
Mr. Scott Morgan

Sh:sh

Ventura County
Watershed Protection District



PUBLIC WORKS AGENCY
RONALD C. COONS
Agency Director

Jeff Pratt
District Director

Lawrence Jackson, Deputy
Water Quality/Environmental

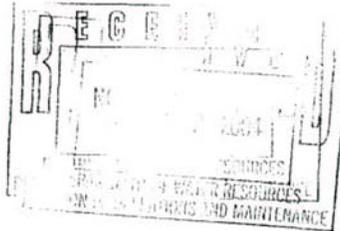
Peter Sheydayi, Deputy
Design/Construction

Sergio Vargas, Deputy
Planning/Regulatory

Tom Lagier, Manager
Operations/Maintenance

November 11, 2004

Dr. Eva Begley
Department of Water Resources
1416 Ninth Street, Room 620
Sacramento, California
95814



SUBJECT: Piru Creek, Simulation of Natural Flows Project
Draft Environmental Impact Report (EIR)

Dear Dr. Begley :

The Ventura County Watershed Protection District (District) has reviewed the submittal and determined that the project does not indicate any direct connection or encroachment to District facilities or right-of-way that would require review and permitting by the District. The project described in the EIR involves modification in the release schedule and quantity from Pyramid Dam for the purpose of simulating natural hydrology of middle Piru Creek and thereby avoid incidental "take" of the arroyo toad (*Bufo californicus*), a federally listed endangered species. Because the project would take place outside the jurisdiction of the District, the project is not expected to affect District jurisdiction facilities. The CDWR will monitor the water release to ensure that there is no threat to life, safety, or property along Piru Creek. However, in the event that release schedules and/or quantities from Piru Lake are altered, the District should be consulted well in advance of implementation.

9

If you have questions regarding this review, please call the undersigned at 654-2906.

Very truly yours,

Kevin Keivanfar, P.E.
Manager, Permit Section
Flood Control Department

TT/tt

Board of Directors
Sheldon G. Berger, President
Roger Orr, Vice President
Bruce Dandy, Secretary/Treasurer
Robert Eranio
Lynn Mauhardt
Darlet C. Naumann
F.W. Richardson

Legal Counsel
Philip C. Drescher

General Manager
Dana L. Wisheart



UNITED WATER CONSERVATION DISTRICT
"Conserving Water Since 1927"

January 6, 2005
Faxed: (916) 653-8250

Dr. Eva Begley
Department of Water Resources
1416 Ninth Street, Room 620
Sacramento, CA 95814

Subject: Comments on Draft EIR
Simulation of Natural Flows in Middle Piru Creek Project

Dear Eva:

The purpose of this letter is to provide our comments on the draft EIR for the proposed Simulation of Natural Flows in Middle Piru Creek . We intend for our comments to be constructive and favorable. As you know, United Water Conservation District supports the proposed project. It was our toad biologist, Nancy Sandburg, who first documented the deleterious impacts on arroyo toads created by the former 25 CFS fish release between April 1 and August 31 of each year. That fish release also results in a net reduction in the amount of water that flows into Lake Piru in many years. That is because each winter DWR pays itself back for the water released the previous summer for fish, by withholding natural inflow that would normally flow downstream into Lake Piru. Thus, water that would naturally flow from Pyramid Lake into Lake Piru with little loss in wet periods has instead been released, for DWR's convenience, in the high evaporative-loss summer months to meet DWR's fish release requirements. Most agencies that provide fish releases do so without attempting to recover the water from downstream water users. DWR appropriates about 18,000 AF/Yr on average from our local watershed, and that water should compensate for the fish release. This questionable operation has been a source of contention between our two agencies since the mid 1990's. That is one reason we are pleased to see a return to a more natural flow condition.

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Our specific comments on the EIR are as follows:

- 1) Although the draft EIR covers the release of 3,150 AF/Yr of United's State Water Project Table A entitlement, it does not discuss what we do with that water. Each year we receive that water in Lake Piru, as described, and release it downstream from Santa Felicia Dam in the late summer and fall, along with local water stored in the lake that is released at the same time. That water flows down Piru Creek into the Santa Clara River, and then towards the Freeman diversion in Saticoy, 26 miles downstream from Lake Piru. Water that arrives at the Freeman diversion is used for direct or in-lieu groundwater recharge in

11

the critically overdrafted Oxnard Plain aquifers. Seawater intrusion has damaged about 20 square miles of the aquifer system near the coast, causing many wells to be unusable. Water released from Lake Piru also recharges three other groundwater basins on its way to the Freeman diversion: the Piru basin, the Fillmore basin, and the Santa Paula basin. All of these aquifers are interconnected to some degree, and recharging one can benefit the others. A good deal of information about United's management of local groundwater can be found in our *2003 Coastal Saline Intrusion Report*, posted on our website at Unitedwater.org.

11, cont.

2) On page 2-7, second paragraph, your wording suggests that United's receipt of State Water in May 2003 contributed to the disruption of that year's arroyo toad breeding season. What actually happened is that a late-season storm in May 2003 washed away many of the arroyo toad egg clutches and tadpoles. The problem was exacerbated by operational delays in matching outflow to inflow. Soon afterwards, our toad biologist, who was doing surveys prior to our scheduled release, suggested that, since the arroyo toads had already been washed away, maintaining a steady flow (instead of a reduction after the storm followed by another increase) would allow us to receive our State Water without harming any toads. This was explained and agreed to by USFWS at our June 23 meeting that year. Receipt of our State Water that year did not adversely affect arroyo toads, as confirmed by our toad biologist.

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3) In Section 7.3, you discuss the cumulative impacts of increasing State Water deliveries to United. Under Table 7-1 you state that "No formal applications or negotiations to increase United's existing State Water Project water deliveries have been initiated by United." You forgot to mention that in 2004 we ordered and received State Water from Pyramid Lake in excess of 3,150 AF. In that year, we ordered a total of 7,000 AF of Ventura County's Table A water: 1,850 for Port Hueneme Water Agency delivered at Castaic, 3,150 AF of United's Table A water delivered at Pyramid Dam, and 2,000 AF of the City of Ventura's Table A water to be delivered at Pyramid. Due to the reduction to 65% of requested amounts, we received only 5,250 AF of State Water last year (4,048 AF from Pyramid). But the precedent has been set – we have already received water above the 3,150 AF covered in the draft EIR. We wrote DWR a formal letter requesting that the EIR cover the full 20,000 AF/Yr of Ventura County's entitlement. After all, Ventura County is a State Water Contractor for 20,000 AF/Yr of Table A water, and why would it be unreasonable for us to be able to receive water for which Ventura County residents have paid millions of dollars? Jim Kentosh and I flew to Sacramento to meet with Tom Glover, Dan Flory, and others at DWR to plead for including higher flows in the draft EIR. We were told that the reason our request was not considered was that it would delay the EIR and possibly result in take of an endangered species. That may be a very good reason, but it not correct to say that we have made no application or request to increase our deliveries. We have already done so and received the water!

13

4) From an institutional perspective, the division of responsibility between United and DWR needs further discussion, perhaps outside the scope of this EIR. We appreciate DWR including our 3,150 AF deliveries in the EIR, although we requested more. But it seems odd that DWR feels responsible for releases of 3,150 AF/Yr of State Water, but not

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for any higher amount. According to the EIR, United must do its own EIR for any higher flows than 3,150 AF/Yr. That differs from the approach by DWR in 2002, when DWR staff objected to United preparing its own Negative Declaration for the Piru Creek State Water Release Project. Again, Ventura County has a State water contract for 20,000 AF/Yr. Any one of the three Ventura County agencies could request their water to be released from Pyramid. So why is DWR only responsible for 3,150 AF of the contracted amount?

14 cont.

5) Also in Section 7.3, you forgot to mention the potential biological benefits of United receiving higher amounts of Table A water in the winter. Both our toad biologist, Nancy Sandburg, and staff of USFWS (email 6/30/04) find it possible that high flows in winter can flush out invasive species, improve the pools for toad breeding, and improve the natural habitat. As part of Pyramid Lake operations, releases are limited to 18,000 CFS, which reduces natural peak flows that helped create the habitat of Middle Piru Creek. High releases of United's Table A water could partially offset that artificial limit to peak flows.

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6) Also in Section 7.3, you discuss the potential for additional water received by United to induce growth in United's service area, and you speculate about the conversion of farmland to urban development. As discussed above and in our website, seawater intrusion is a serious problem in United's service area. It is estimated that the overdraft of the Oxnard Plain aquifers exceeds 20,000 AF/Yr, more than Ventura County's entire Table A contract amount. Therefore, there is a need for additional water to meet existing demands within Ventura County. As for farms, they require water to grow crops. In any worsening water shortage, the farmers could be driven out of business, increasing pressure to convert to urban development. Your analysis of growth issues in Ventura County is incomplete and imbalanced, and could prejudice any real analysis done in the future. Since CEQA discourages speculative predictions, we suggest you remove from the EIR your comments about growth impacts of additional State water for United.

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7) Similarly, on the top of page 7-8, you imply that United's Increased State Water Project Deliveries would displace existing housing or populations. This statement is made without any explanation or analysis. Please clarify this sentence. We think you intended to say that no analysis was done on that project so you can't rule out those effects yet.

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8) In the first sentence on Page 7-6, you find the cumulative impacts due to the Increased State Water Deliveries to United Project to be adverse and potentially significant. This conclusion was reached based on a cursory and flawed analysis. We suggest you not speculate on the importance of these impacts until a complete analysis is performed as part of any future CEQA documentation.

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9) At the bottom of Table 7-1, you state that United's Table A deliveries could be made via Castaic Creek. That would be completely impractical. Hydrologic data collected over many years shows that a large part of any water released from Castaic Reservoir percolates into the ground in Los Angeles County and does not reach Ventura County. Our 1978 Agreement with DWR is based on such percolation. Releasing our Table A

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Page 4
January 6, 2005

water from Castaic Reservoir into Castaic Creek would benefit Newhall Land and Farming and water agencies in Los Angeles County, but would be a waste of money for Ventura County. It would also result in the delivery of State Water to non-contractors. Several years ago United Water requested SWPAO to initiate a change of point of diversion. This has not been done.

19, cont.

We hope you will consider these comments in the friendly spirit in which they are intended. We have worked closely with DWR on these and other issues for many years. Although we have not always agreed on everything, we have worked together amicably and cooperatively. Please feel free to call me if you have any questions or need any additional information.

Sincerely,



Dana L. Wischart
General Manager

cc: Nancy Sandburg
Phil Drescher, District Counsel
Terry Earlewine, State Water Contractors

JK: Corresp/DWR/2005/Pyramid EIR/L-DWR-Pyr EIR 1.doc
File: DWR



Filed electronically

January 5, 2005

Dr. Eva Begley
California Department of Water Resources
Division of Engineering
1416 Ninth Street, Room 620
Sacramento, CA 95814

Re: The Simulation of Natural Flows in Middle Piru Creek, DEIR

Dear Dr. Begley:

California Trout, Inc. offers the following comments concerning the November 2004 California Department of Water Resources (DWR) Draft Environmental Impact Report regarding *The Simulation of Natural Flows in Middle Piru Creek*, (DEIR). The DEIR is based on the erroneous assumption and material error to not include a federally listed species, i.e. steelhead, within its analysis.¹ As such, the environmental consequences of the DEIR alternatives are without the proper suite of studies or facts from these missing studies, and thus the possible impacts of the proposed alternatives for DWR or the public to fully comprehend. The California Environmental Quality Act (CEQA) process is designed to "demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." (14 Cal. Code Regs. § 15003(d)). The omission of an endangered species investigation and analysis violates CEQA's most substantive provisions, which prohibits approval of projects without adopting feasible mitigation measures or alternatives (CEQA § 21002). CEQA requires a mandatory finding of significance for impacts on rare or endangered species. (CEQA Guideline 15065(a)).

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On August 18, 1997 the Department of Commerce, National Marine Fisheries Service (NMFS) made a final listing determination for five Evolutionary Significant Units of west coast steelhead under the Endangered Species Act (ESA). (62 FR 43937-43954). The Service determined the steelhead within Southern California's Evolutionary Significant Unit (ESU) - those remain populations of steelhead from the Santa Maria River (San Luis Obispo County) south to Malibu Creek (Los Angeles County) including the Santa Clara River - are an endangered species. The full force of the Endangered Species Act with respect to the published listing went into effect on October 17, 1997.

¹ DWR maintains in its DEIR that genetic studies have demonstrated that the rainbow trout population in Middle Piru Creek are not related to steelhead, but this position relies on a mere "personal communication" with a single Department of Fish and Game staff person. No site specific study is provided or reference in order to determine the veracity of the reported "genetic study" and as such is mere speculation.

On December 10, 2004, the NMFS proposed critical habitat designations for two ESUs of chinook salmon and five ESUs of anadromous steelhead (including resident rainbow trout) in California that are listed under the Endangered Species Act. This proposed rule now includes the middle Piru Creek. This occurred after DWR produced its DEIR.

Be advised the NMFS's proposed critical habitat designation has materially and substantively changed the baseline conditions for your agency's DEIR. This requires the Department of Water Resources to suspend certification of your document until, at a minimum, the NMFS produces a final critical habitat rule. Specifically, the DWR's assumption concerning project non-impact on a federally listed species, i.e. steelhead, has not been address within the DEIR. In deed, the DEIR glosses over project impacts on now proposed critical habitat for steelhead, and is fraught with assumptions that are without adequate technical underpinnings.

22

Middle Piru Creek Now Proposed as Steelhead Critical Habitat

On December 10, 2004 the NMFS published a proposed new critical habitat rule which includes the Middle Piru Creek from Pyramid Dam downstream to Santa Felicia Reservoir. (*see Fed. Reg. Vol. 69, No. 237*).

“The Team also concluded that inaccessible reaches of Piru Creek and its tributaries above Santa Felicia Dam may be essential to the conservation of this ESU. The Team reached this conclusion because historical records indicate that the inaccessible habitat reaches above Santa Felicia Dam provided the principal spawning and rearing habitat for a historically large anadromous *O. mykiss* population within the Santa Clara River watershed prior to construction of the dam. In addition, most of these unoccupied river reaches are located on lands under public ownership and management, primarily the Los Padres National Forest. Because of the large size of the Santa Clara River watershed, it is likely to have historically supported one or more independent populations prior to dam construction which contributed to the resiliency of the ESU and served as a buffer against its extinction. The currently occupied habitat areas within the range of the SC *O. mykiss* ESU are relatively small in number and size, and in many cases are isolated from other occupied habitats, thus the re-establishment of larger populations such as the one that historically occurred in the Santa Clara River watershed may be necessary to reduce the extinction probability of this ESU. We seek comment on whether unoccupied areas above Santa Felicia Dam should be proposed as critical habitat.” (*see Fed. Reg. Vol. 69, No. 237, page 71899*).

Steelhead Habitat Needs in Middle Piru Creek

In its December 10, 2004 proposed critical habitat rule, the NMFS described the habitat needs for steelhead. Steelhead have a complex life cycle which gives rise to complex habitat needs, particularly during the freshwater phase (*see* review by Spence et al., 1996). Spawning gravels, which are not blocked by Pyramid Dam from natural recruitment, must be of a certain size and free of sediment to allow successful incubation of the eggs. Eggs also require cool, clean, and well-oxygenated waters for proper development. Juveniles need abundant food sources, including insects, crustaceans, and other small fish, which will require adequate year round instream flows to be sustained. They also need places to seek refuge from periodic high flows (side channels and off channel areas), such as those proposed by DWR within its DEIR. Steelhead, during all of its freshwater life cycle require cool water with particular emphasis to avoid warm summer water temperatures. (*see* Fed. Reg. Vol. 69, No. 237, page 71886).

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DWR's Failure to Consult with the NMFS

As referenced above, it has been readily known since August 17, 1997 that steelhead within the Santa Clara River watershed have been become a federally listed species. DWR has prepared a list of agencies, organizations, and persons who were consulted during the preparations of the DEIR (*see* DEIR page 9-1 and 9-2). According to the DEIR, DWR has not consulted with the federal agency responsible for the management of steelhead as a listed species, i.e. the NMFS. This material fact is a serious error and omission of both CEQA, as well as the federal ESA.

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DWR Hydrologic Simulation

DWR's hydrologic simulation, as illustrated by Figure 3.2-1, is in error as its period of examination is too short to accurately predict unimpaired flows, i.e. a mere six years covering 1996 to 2002. For example, Figure 3.2-1 indicated mean inflow to Pyramid Lake during January is below 40 cfs, and for March below 140 cfs. The USGS gauge information for Gauge #11109375 plus Gauge #11109395 covering the period 1976 to 2003 determines these flows average above 70 cfs for January and above 170 cfs for March. These flows do not include additional steamflow which may occur due to precipitation on the surface of Pyramid Lake. Other errors likely exist in part due to the limited period of DWR's hydrologic analysis.

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We recommend the analysis be redone using the longest period of record available from the USGS and to separate this analysis into dry, normal, and wet water years types to enhance the comprehensive understanding of the CEQA document. Moreover, this information should be presented both in a tabular and graphic forms to clarify with great but necessary precision hydrologic findings.

Proposed Project Will Violate State and Federal Water Quality Statute

Consistent with the requires of both the State of California's Porter-Cologne Anti Degradation Act, as well as the federal Clean Water Act, water quality beneficial uses for the middle Piru Creek have been established which are to be collectively protected and sustained on a continuous basis. The Los Angeles Regional Water Quality Control Board has, within its *Basin Plan*, made a finding of fact that "coldwater habitat" is one of the beneficial uses for middle Piru Creek. The State Water Resources Control Board has defined coldwater habitat as a narrative standard where water temperatures shall not exceed 68^oF.

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The Federal Energy Regulatory Commission (FERC) is required to either obtain or a waiver from the State of California in regards to a Clean Water Act 401 Certificate. As DWR project proposes to reduce instream flows which will induce water temperatures above the coldwater habitat standard of 68^oF, a violation of law may occur. At a minimum the DEIR must acknowledge this material finding of fact, while simultaneously advising FERC of their potential liability, and require DWR to seek an amendment to its FERC license including obtaining a new 401 Certificate.

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Formal Consultation May be Required

Under ESA section 7(a)(2), the FERC must assure that its licensing action, as well as under its ongoing regulatory stewardship, projects such as DWR's Pyramid project, is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of such species. Critical habitat is designated as necessary for the species' conservation and recovery. *See* ESA section 3(5)(A); *see also* Gifford Pinchot Task Force v. USFWS, 378 F.3d 1059 (9th Cir. 2004).

Under 50 CFR § 402.14(a), formal consultation is required for any federal action that "may affect...critical habitat," unless the lead agency publishes a Biological Assessment (BA) or preliminary Biological Opinion (BO) that determines, with the FWS' concurrence, that the action will not adversely affect such habitat (*id.*, (b)).¹

To the best of our knowledge no formal consultation has been initiated by FERC or DWR, yet the DEIR establishes the need such action. A failure to initiate formal consultation would expose FERC to the potential expose to "taking" liabilities under the ESA.

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Conclusion

California Trout submits that DWR should not proceed with altering the current operational scheme of providing a minimum of 25 cfs until such time as the new NMFS information, as well

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as numerous and substitutive errors and serious omissions we point out have been fully rectified. Amongst these serious errors and omissions are:

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1. The omission of an endangered species investigation and analysis which violates CEQA's most substantive provisions, which prohibits approval of projects without adopting feasible mitigation measures or alternatives (CEQA sec. 21002).
2. The omission of CEQA Guideline 15065(a) requiring a mandatory finding of significance for impacts on rare or endangered species.
3. New information concerning a published proposed federal critical habitat designation for steelhead and middle Piru Creek which undermines the basic assumption the DEIR was built upon.
4. Exposing agency and personal liabilities to FERC for takings under the federal Endangered Species Act.
5. Incomplete hydrologic analysis leading to errors of fact.
6. Possible violations of both state and federal water quality laws.
7. Drawing conclusions about rainbow trout genetics in an arbitrary and capricious manner by relying on unsubstantiated information.
8. Failure to consult with the NMFS concerning a project which may have steelhead implications.

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We appreciate the opportunity to provide you with these comments. Kindly keep us informed of your timely future actions on this activity.

Sincerely,

California Trout, Inc.



Jim Edmondson
Southern California Manager
5436 Westview Court
Westlake Village, CA 91362
(818) 865-2888

JOE RICHEY - PRESENTATION NOTES
ENVIORNMENTAL IMPACT REPORT

The Simulation of Natural Flows in Middle Piru Creek

1. For the last 15 years I have become intimately familiar with Piru Creek and the canyon between Lake Pyramid and Lake Piru . Fly Fishing, hiking, camping, observing nature in one of the most beautiful canyons in Southern California. I'm very cognizant of the delicate balance of nature we have in this canyon but I'm not an environmental activist, I'm an active environmentalist. The incredible advantage we have because of the dam at Lake Pyramid is unparalleled. Piru Creek, with year-around releases from the lake, has Southern California's most stable trout habitat.

2. Nine years ago I purchased the Whitaker Ranch and built a small cabin for recreational use. I also lease the property known as Kesters Camp. My property consists of 112 acres and the leased property contains 160 acres connected to my ranch at the northwest corner. An additional 80 acres known as the pot hole approximately 2 ½ miles west of my ranch are included in the lease.

3. My property is located in the EIR on pages 3-56 and 3-58 and is labeled the Whitaker Ranch Site. As you can see the proposed project falls within better than 20% of our land.

A. I was never notified of this proposal. No agency, organization or person called, wrote or tried to notify me.

4. Page 3-75, paragraph 3.3.1 states -

A pedestrian survey of the proposed project area was conducted in the spring of 2004. This survey included visual inspection of the creek corridor and the various small drainages feeding the creek. The proposed project area was surveyed from the creek bed to an elevation of 1250 feet above mean sea level at the northern end of Piru Lake -

A. The cabin on the leased property is located at approximately 1200 feet in elevation. Again, no contact from any source was made.

5. Page 3-84, paragraph 3.3.4 describes the topography of my ranch and clearly states that -

no physical evidence of the road from Blue Point Campground to my ranch or my lease was identified during the survey. As you can clearly see on the 2003 satellite photograph of my ranch, the roads are highly visible. To enter the ranch one must cross the stream at two very distinct locations. The EIR goes on to state - There is the potential for previously unidentified components of Whitaker Ranch located adjacent to the property to be uncovered due to increased flows and erosion. Additionally, the potential of uncovering these resources is what would be anticipated to occur under pre-dam conditions. In 1969, under pre-dam conditions a house located less than 500 yards south of my cabin was washed away by high water erosion. - The EIR goes on to state - Although the rate of the uncovering of these resources due to the increased rate of erosion associated with the proposed project may occur, this rate change would not be considered a potentially significant adverse impact in itself. I beg to differ with that opinion. We constantly maintain the road and the stream crossings. I have applied for and have been granted a Stream Bed Alteration Agreement # R5-2001-0105, with automatic extensions for ten years. The high flows proposed in the project will obviously destroy my road. The cost of rebuilding the road will be in the \$5,000 to \$6,000 range because of the equipment required. With the dam in place, only a storm of the 1998 El Nino proportion would cause this kind of destruction. Approval of this EIR would be unconscionable from that prospective alone.

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WILD TROUT ISSUES

1. Page 3-64 of the EIR states -

*Under the proposed project Pyramid Dam would be operated to simulate a natural flow regime downstream of Pyramid Lake to the extent operationally feasible and consistent with safety requirements.--
-- Winter high flows below 18,000 cfs would not be attenuated unless there are safety concerns and summer releases from Pyramid Dam would not be augmented by release of additional water from the reservoir. ----- Under the proposed project, there may be summer periods of no flow at Blue Point Campground in approximately one third of the years.*

One does not have to be a wild trout biologist to know that when the insect population dies from lack of water, the return of water in the winter will not sustain a wild fish population even if they return from the lake or come down from upstream. Much was written about trout fishermen and their catch and release program at Frenchman's Flat but no surveys were taken at the south end of the stream above Lake Piru. This section of the stream holds large populations of caddis flies, two or more varieties of may fly's and many other insects that wild trout feed upon. Significant populations of wild trout inhabit this section of the stream. Fish from 6" to 12" are frequently caught and released in this area. From Ellis Apiary up stream through the gorge, many 14" and above fish reside. Without question, Piru Creek is the finest tail water fishery in Southern California. Every May, I observe wild trout spawning in Piru Creek. Not just a few fish but dozens of pairs of spawning trout can be seen.

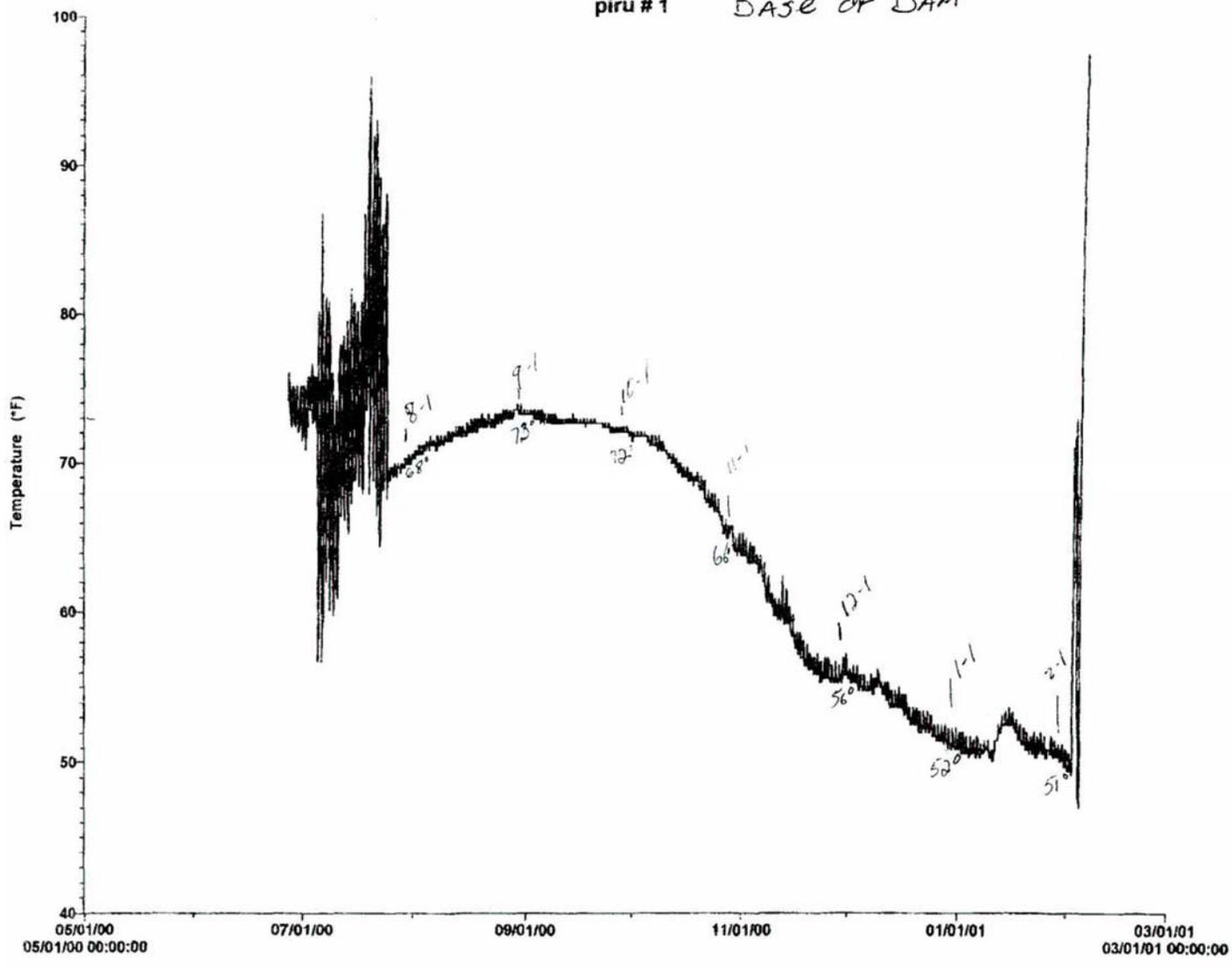
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To go forward with this proposal under the guise of protection of the arroyo toad is simply put, a fraud. Professor Sam Sweet from the University of California at Santa Barbara has stated many times that "flows as high as 90 cfs will support the requirements of the arroyo toad and the rainbow trout". The problem is not the flows but the erratic changes to the flows that cause distress to the toad as well as the fish. I have tracked stream flows as well as water temperatures at many locations along Piru Creek from the base of Lake Pyramid to Blue Point Campground. It may surprise you to know that on August 1, 2000 the water temperature at the base of the dam was 68 degrees and at a site on my ranch, close to 15 miles south, the temperature ranged from 70 degrees at 6:00 AM to 79 degrees at 6:00 PM. The arroyo toad as well as most other aquatic forms of life adapt to their environment. What they can't adapt to are wild fluctuation of water flow. On May 22 of 1991 the flow at the sensor above Lake Piru was 113 cubic feet per second and on May 28 it was cut to 49 cubic feet per second. From June through July 2 the flow averaged 50 cubic feet per second. Then from July 5 to July 10 the flow was cut from 55 cubic feet per second to 20 cubic feet per second. This kind of flow change will wipe out the eggs of the arroyo toad as well as the eggs of the wild trout. This is what we should be addressing at this meeting.

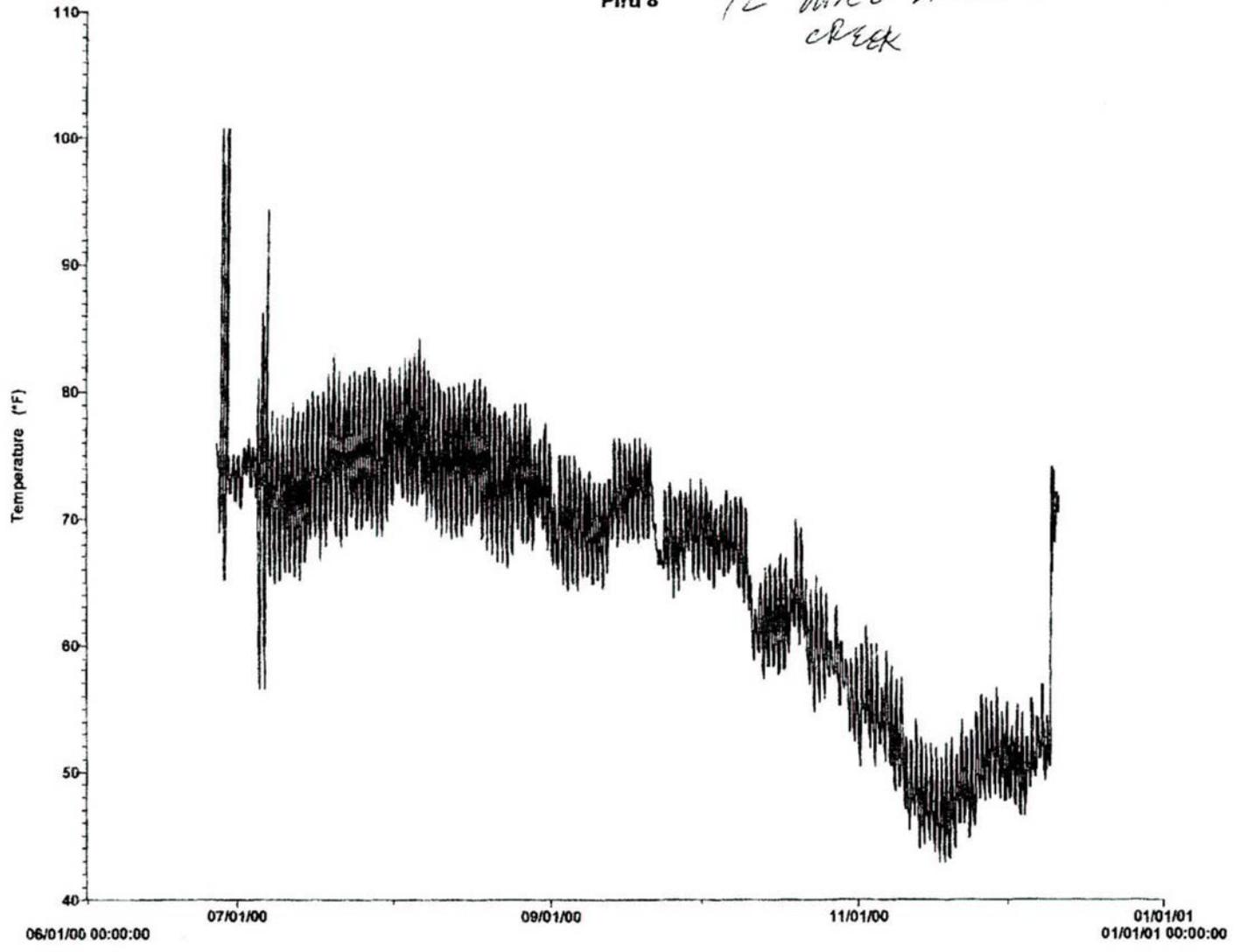
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With all due respect, this EIR is more about a group of state agencies that can't or won't come to agreement on water distribution. The State Water Resource Board, and the Administrations of Lake Pyramid and Lake Piru have been feuding for years over how much water to release and when to release it. We must all think long and hard before we attempt to destroy the unmatched beauty and prolific wildlife that depend upon Piru Creek for their existence.

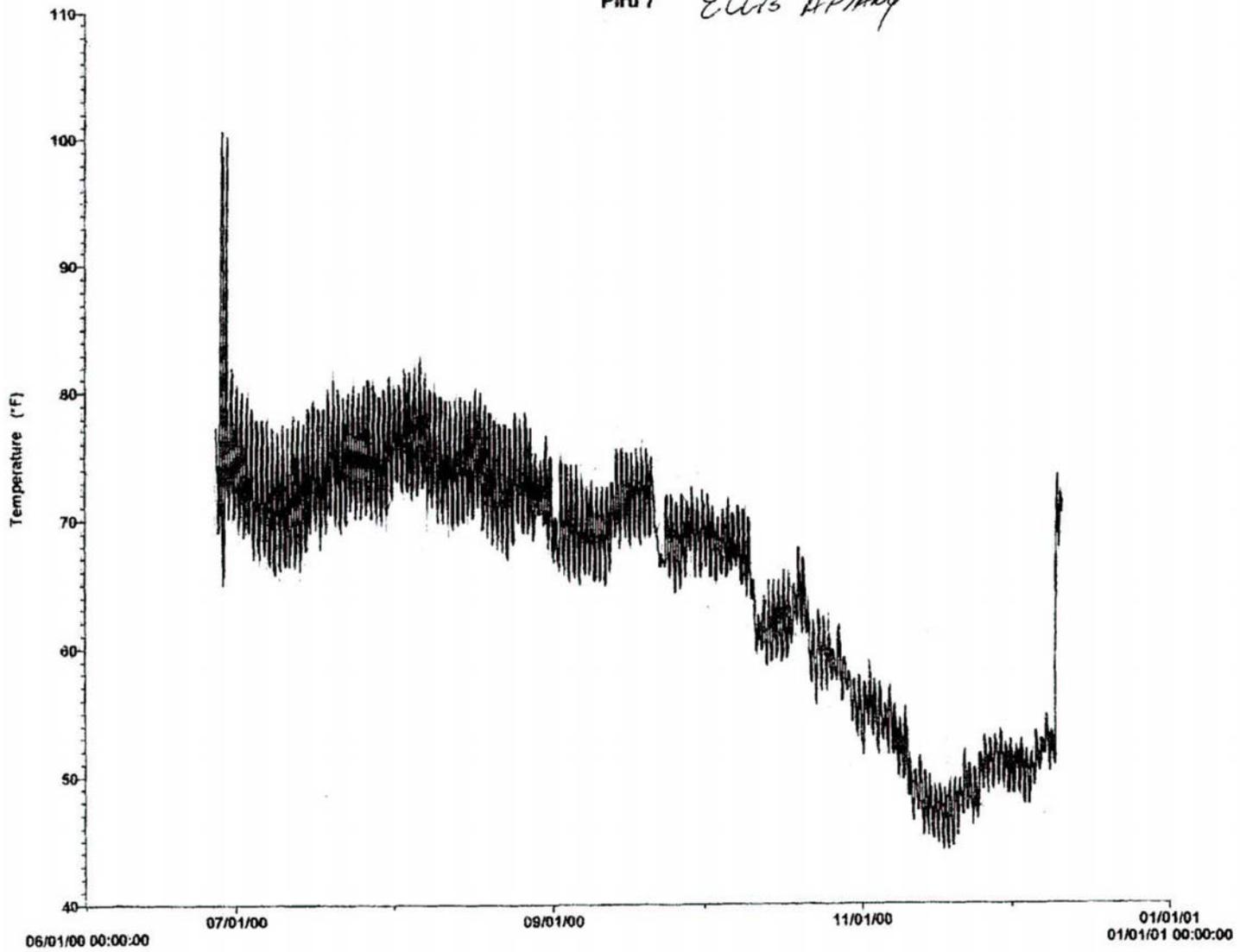
piru # 1 BASE OF DAM



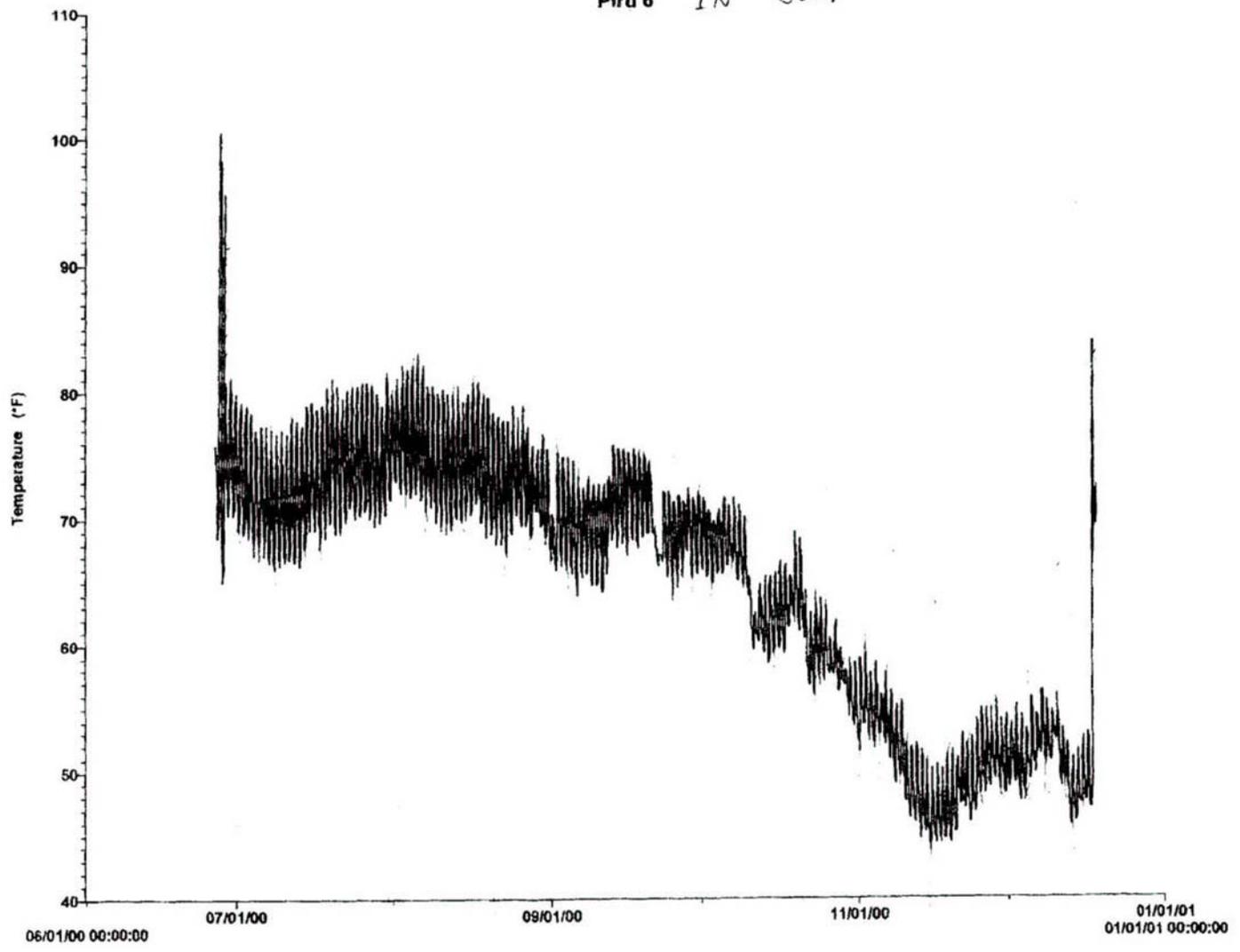
Piru 8 1/2 MILE ABOVE AQUA BLANCA CREEK



Piru 7 *ELVIS APJALY*

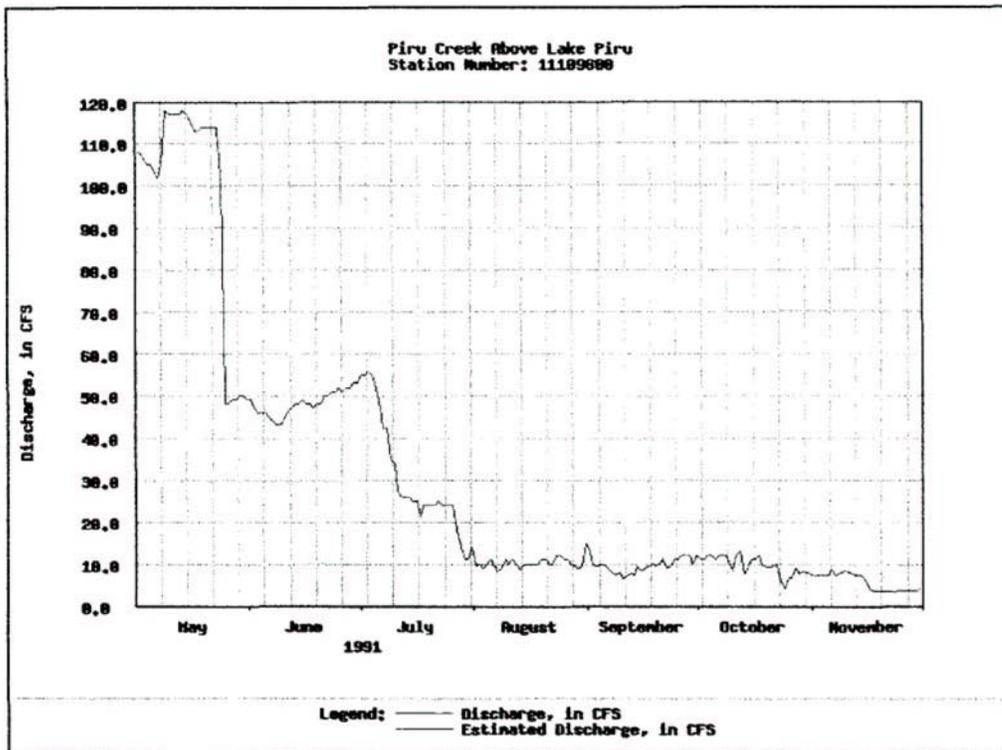


Piru 6 IN Gorge NORTH of Ruby CANYON





Historical Streamflow Daily Values Graph for Piru Creek Above Lake Piru (11109600)

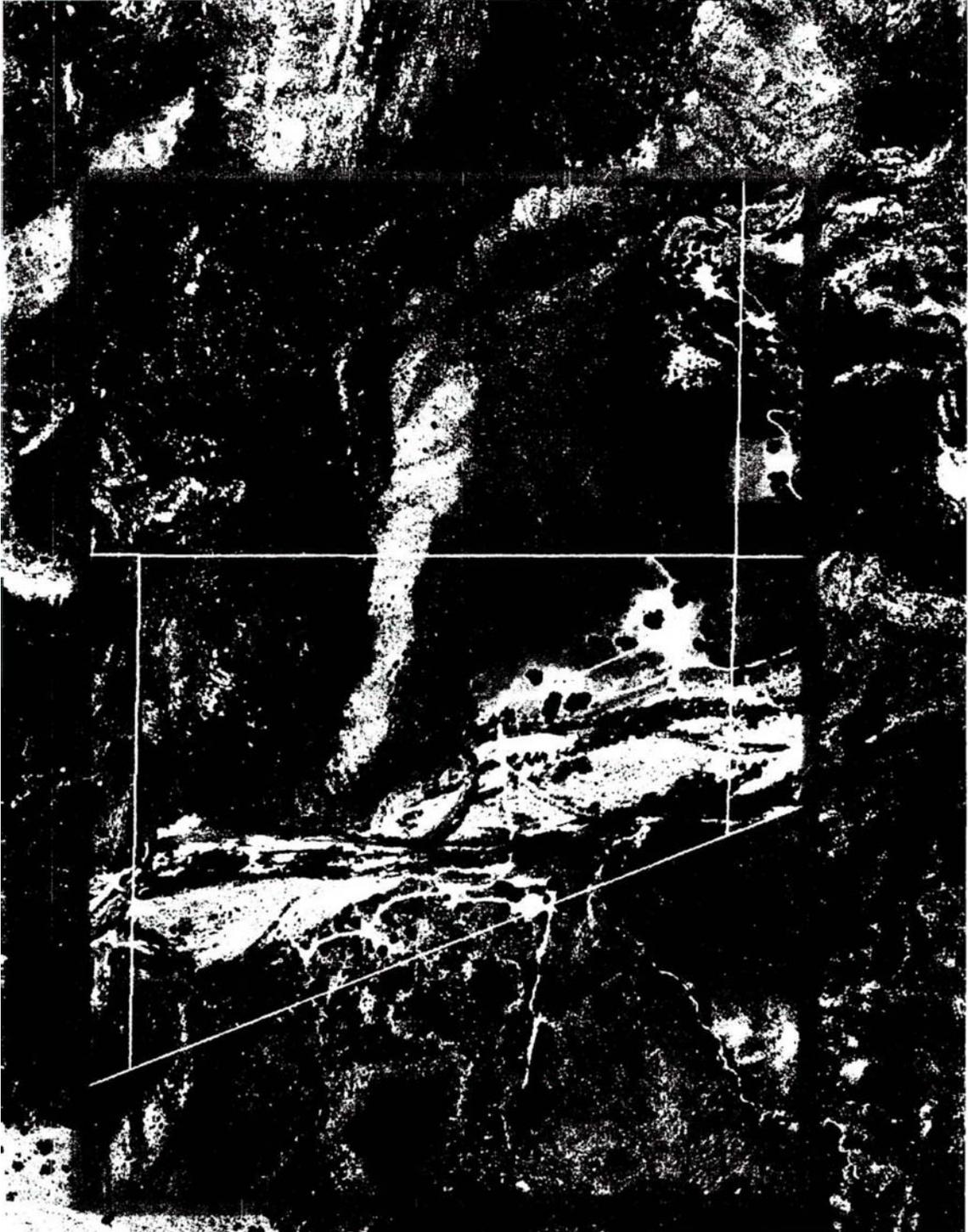


Some stations have red data points. These represent days for which data were estimated, rather than recorded.

[Force this graph to be redrawn](#)

[Why you might press this button](#)

We are aware of a problem with the clickable county imagemaps. When you click on a map you may not get stations for the county you expected, or the click may register as having missed the state. We are working on this problem.





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802- 4213

JAN 11 2005

151422SWR2005PR20203:APS

Eva Begley
Department of Water Resources
1416 Ninth Street, Room 620
Sacramento, California 95814

Dear Ms. Begley:

The National Marine Fisheries Service (NOAA Fisheries) has reviewed the Department of Water Resources' (DWR) Draft Environmental Impact Report (EIR, [November 2004]), which describes the proposed simulation of natural flows in the middle reaches of Piru Creek, between the DWR's Pyramid Reservoir and the United Water Conservation District's Piru Reservoir, a tributary to the Santa Clara River.

The Santa Clara River watershed is one of the principle watersheds remaining in Southern California which continues to support populations of the Southern California Evolutionarily Significant Unit of endangered steelhead trout (*Oncorhynchus mykiss*). The Piru Creek drainage comprises approximately one-third of the Santa Clara River watershed, and historically contained important steelhead spawning and rearing habitat accessible to steelhead entering the Santa Clara River system. The Piru Creek watershed continues to retain suitable steelhead spawning and rearing habitat in its middle reaches and upper reaches (though it is currently inaccessible due to the presence of impoundments without fish passage capabilities). Additionally, the Piru Creek drainage continues to contribute important flows through the lower reaches of the Santa Clara River (below the confluence of Piru Creek and Santa Clara River) which are necessary for steelhead to access other spawning and rearing tributaries such as Santa Paula Creek, Hopper Creek, Sespe Creek, and lower Piru Creek, within the Santa Clara River system.

Given the interrelated and interdependent nature of water management facilities in the Piru Creek/Santa Clara River watershed, and the presence of the Southern California Evolutionarily Significant Unit of endangered steelhead trout (*Oncorhynchus mykiss*) within the Santa Clara River watershed, the action proposed by DWR presents issues pertinent to the protection and recovery of the federally endangered southern California steelhead trout which have not been adequately addressed in the Draft EIR.



The proposal to change the Pyramid Reservoir operations to more closely simulate the natural variability of stream flows within the middle reaches of Piru Creek, while intended primarily to restore habitat conditions for the federally endangered Arroyo toad (*Bufo californicus*), is generally compatible with and complimentary to NOAA Fisheries on-going efforts to recover the historic steelhead populations in the Piru/Santa Clara River drainages. (See enclosed letter from NOAA Fisheries to United Water Conservation District regarding relicensing of the Santa Felicia Hydroelectric project, dated December 22, 2004.) However, as indicated in the enclosed specific comments, the Draft EIR should be modified to provide clarification of the proposed operations, more specific monitoring and adaptive management provisions, and consideration of some additional operational changes to specifically address steelhead protection and recovery issues. Finally, the Final EIR should be modified to more accurately reflect the status of the historic and current steelhead/rainbow trout populations within the Piru Creek drainage.

NOAA Fisheries appreciates the opportunity to comment on the proposed action and looks forward to continued collaboration with DWR on this important recovery effort in the Piru Creek drainage. Please contact Mark Capelli at (805) 963-6478 if you have any questions concerning the comments or if you require additional information.

Sincerely,



Rodney R. McInnis
Regional Administrator

Enclosures

cc: Magalie R. Salas, U.S. Federal Energy Regulatory Commission
Gloria Brown, U.S. Forest Service, Los Padres National Forest
Diane Noda, U.S. Fish and Wildlife Service
Larry Week, California Department of Fish and Game
Jim Canaday, California State Water Resources Control Board

Comments on Draft Environmental Impact Report for Simulation of Natural Flows in Piru Creek

1. Introduction

1.2.1 Lead Agency and Other Agency Reviews and Approval

This section should address issues related to the Endangered Species Act (ESA) and the federally endangered steelhead trout that occurs in the Piru Creek and Santa Clara River drainages downstream of Pyramid Reservoir. Section 7(a)(1) of the ESA provides that Federal agencies shall utilize their authorities to further the purposes of the ESA by carrying out programs for the conservation of listed endangered and threatened species. Implementation of the proposed action would require the Federal Energy Regulatory Commission (FERC) to amend the existing license for this facility, and thus FERC has a responsibility to consider whether there are any potential effects of this project on steelhead, as well as any opportunities for conservation of steelhead that are associated with the project. See additional comments below.

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2. Project Description

2.3 Proposed Project The project description in this section should contain additional specificity regarding the proposed water releases to reflect natural fluctuations of stream flow above Pyramid Reservoir. The more detailed operational parameters contained in the Section 3.2.4. Environmental Impacts and Mitigation Measures (Hydrology) should be included in this section of the EIR to provide clearer picture of what is being proposed.

The proposed operational releases are based upon stream flow gauges which provide only mean daily flow readings. Given the extremely flashy nature of Piru Creek (and other southern California rivers and streams), storm peaks may (usually) last only a few hours, and the mean daily averages can vary greatly from the actual peak. Basing flow releases on the present gauging system would result in artificially lowered peak flows, and thus attenuate some of the fluvial geomorphic processes which the project is intended to restore. While mean daily flow measurements are often adequate for water supply management purposes, they are not adequate to record short-term natural flow fluctuations which are important for biological and related natural fluvial geomorphic processes. For the purposes of implementing the project objectives, DWR should install real-time gauges to provide a more accurate record of short-term peak storm events, and use these for future operations.

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1.2.2

The project description does not provide sufficient specificity regarding the management of the State Water Deliveries to Piru Reservoir. (See additional comments below)

3. Environmental Analysis of the Proposed Project

3.1.1. Introduction

In addition to the impacts on Arroyo toad, the introduction should explicitly reflect the impacts of the construction of Pyramid Reservoir on the native steelhead trout (*Oncorhynchus mykiss*) of the Piru Creek drainage and Santa Clara River, including residualized populations which currently exhibit ad fluvial life-cycles. In addition to the alterations of natural fluvial processes, these impacts include introduction of non-native aquatic species through the transmission of State Project water and an increase in the habitat suitable for the proliferation of non-native aquatic species which compete with and prey upon these native fishes. (See additional comments below)

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3.1.2. Environmental Setting

Fish

The Draft EIR indicates that prior to construction of the water diversion on the Santa Clara River and Santa Felicia Dam, middle Piru Creek "may have supported a winter run of steelhead." The Draft EIR also indicates that a survey conducted by the California Department of Fish and Game in 1987 did not detect the presence of *native* fish in the middle reaches of Piru Creek (emphasis added). These statements are inaccurate and do not reflect the most current information.

Prior to the initiation of the Vern Freeman Diversion on the Santa Clara River, the Santa Clara River system supported an annual run of anadromous steelhead estimated at 9,000 adult fish per year. These adults ascended all the major tributaries of the Santa Clara River system, including Piru Creek, where their principal spawning and rearing tributaries are located (NOAA Fisheries, 1996, 2003, 2005, Moore 1980, Bryant 2004). Piru Creek (excluding the tributaries) contains approximately 25 miles of prime steelhead spawning and rearing habitat, which constituted approximately 28% of the total historical habitat in the Santa Clara River system (Moore 1980). Within the middle reaches of Piru Creek (between Pyramid Reservoir and Piru Reservoir) there are an additional 50 miles of tributaries (e.g., Fish Creek, Aqua Blanca Creek), at least half of which historically provided additional seasonal steelhead spawning and rearing habitat.

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With the completion of Piru Reservoir (c. 1955) and Pyramid Reservoir (c 1972) access to Piru Creek and its tributaries above the reservoirs was eliminated, but the progeny of sea-run fish have continued to persist as residualized populations, particularly in the tributaries which have been less affected by impacts related to the construction of the two reservoirs, such as the spread of non-native aquatic predators (e.g., bull-frogs, sunfish, and bullhead catfish). The native rainbow trout (*O. mykiss*) in the tributaries are known to exhibit an ad fluvial life-history pattern (i.e., juveniles rear in the tributaries, emigrate to the reservoirs serving as a substitute ocean, with the adults maturing in the reservoirs before returning to the tributaries to spawn, [Sweet 2005; U.S. Forest Service 1994]). Recent genetic work done on the trout populations of the Santa Clara River watershed (including the upper and middle reaches of Piru Creek) by the NOAA Fisheries Southwest Region Science Center indicate that the native rainbow trout in the middle reaches of Piru Creek are closely related to other trout populations in the Santa Clara River with access to the ocean, and are not related to the

populations of trout which are reared in the California Department of Fish and Game's hatchery in Fillmore (Garza 2005). (See additional comments below.)

Trout Fishery

The Draft EIR indicates that it is "unclear" whether the potential for anadromous behavior is a genetic adaptation or an opportunistic behavior, but then asserts that any stock of rainbow trout is capable of migrating or at least adapting to seawater if the proper opportunity exists. The Draft EIR also reports that genetic studies of rainbow trout conducted in middle reaches of Piru Creek indicate that the existing populations of rainbow trout are not related to native steelhead, but to hatchery reared fish, and concludes that there is therefore no anadromous form of steelhead in middle reaches of Piru Creek.

These statements are inaccurate, and taken together are contradictory. If it is true that any stock of rainbow is capable of migrating and adapting to seawater, and the hatchery fish in middle Piru Creek are rainbow trout (regardless of whether related to native steelhead), it does not follow logically that there are no anadromous forms of rainbow trout present in the middle reaches of Piru Creek. However, both of the states are inaccurate. Anadromy is exhibited in varying degrees between different species of salmonids; as well as in different populations of the same species. In some species anadromy is mandatory for the completion of the fishes life-cycle (e.g., the five species of Pacific Salmon are obligate anadromous), while other species vary in their anadromous behavior, with Atlantic Salmon and Steelhead strongly but not mandatorily anadromous, and Cutthroat trout and Arctic char more weakly anadromous. Steelhead exhibit a particularly plastic life-history, with individual populations containing individuals which exhibit strong, weak, or no anadromous behavioral traits. Populations which have been cut-off from access to the ocean, either by natural or anthropogenic conditions, have continued to produce progeny which exhibit anadromous behavior; the relatively large number of young steelhead (smolts) which continued to emigrate out of the Scspe Creek drainage after adult fish passage was blocked is one local example of such behavior.

As noted above, a genetics study of *O. mykiss* found above and below major barriers within Central and Southern California indicates that samples of rainbow trout collected in the middle reaches of Piru Creek (near Frenchman's Flat) are more closely related to samples of trout from the upper reaches of the drainage (upstream of Pyramid Dam) and the lower reaches of the Santa Clara River drainage (below Santa Felicia Dam), than to the hatchery rainbow trout (from Fillmore State Hatchery) planted in Piru Creek. These samples were collected in late summer and fall of 2003 (after stocking hatchery trout stops at Frenchman's Flat and most stocked fished have been either been caught, preyed upon, died from disease or elevated water temperatures, or otherwise removed from the system), and included mostly juvenile fish, most likely representing naturally reproduced individuals. The preliminary results of this study indicate that the level of introgression between the planted and the native *O. mykiss* reported in the EIR is overestimated (Garza 2005).

Sensitive Wildlife

Table 3.1.-2 Known or Potentially Occurring Sensitive Wildlife in Middle Piru Creek

This table does not include residualized *O. mykiss* residing either in the main stem of the middle reaches of Piru Creek or its tributaries. This species should be added to the table, and discussed in the text, per the above comments.

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Fish

Sensitive Species

See comment above.

3.1.3. Applicable Regulations and Significance Criteria

3.1.3. Applicable Regulations and Significance Criteria

This section should address issues related to the Endangered Species Act (ESA) and the federally endangered steelhead trout that occurs in the Piru Creek and Santa Clara River drainages downstream of Pyramid Reservoir. Section 7(a)(1) of the ESA provides that Federal agencies shall utilize their authorities to further the purposes of the ESA by carrying out programs for the conservation of listed endangered and threatened species. Implementation of the proposed action would require the Federal Energy Regulatory Commission (FERC) to amend the existing license for this facility, and thus FERC has a responsibility to consider whether there are any potential effects of this project on steelhead, as well as any opportunities for conservation of steelhead that are associated with the project. See additional comments below.

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3.1.4. Environmental Impacts and Mitigation Measures Impact B-1 Loss or Damage to Non-Sensitive Plants and Wildlife

The discussion of rainbow trout (*O. mykiss*) does not reflect that presence of native rainbow trout which are residualized populations of historic (pre-dam construction) anadromous southern California steelhead, in the mainstem and in the tributaries to the middle reaches of Piru Creek. While the proposed project would have over-all beneficial affect on these populations (principally by restoring natural migration flow opportunities, reducing non-native aquatic predators, and restoring natural fluvial geomorphic processes which serve to create and perpetuate natural habitat conditions), the discussion should be modified to reflect the comments above regarding the historic and current status of *O. mykiss* in the Piru Creek drainage and their relationship to native anadromous steelhead elsewhere in the Santa Clara River watershed. In particular, the reference to the introgression of native *O. mykiss* with hatchery reared fish should be corrected and up-dated.

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The Draft EIR identifies two scenarios for delivering State Project water to the United Water Conservation District Piru Reservoir between November 1 and February 28 each year: mimicking natural storm, hydrographs, or spreading the flows out over several months. To maximize the benefits of the propose management of natural flows, the delivery of State Project Water should be managed similarly, or consistent with the management of the natural inflows to Pyramid Reservoir.

Also, the issue of the transmission of non-native aquatic species which prey upon native fishes and amphibian was not addressed in the Draft EIR. This issue should be explicitly addressed, and measures identified for monitoring the transmission of such non-native species, and

controlling or eliminating them from the Piru Creek drainage. Among the control options that should be considered are seasonal eradication in drying pools, sterilization of captured individuals, screening of controlled outlet works, and public education aimed at increasing the awareness of the problems created by releasing non-native species into the drainage, including the Pyramid Reservoir.

44, cont.

Impact B-4: Loss of or Damage to Sensitive Fauna

See comment above under Non-Sensitive Plants and Wildlife.

3.2 Water Resources

3.2.2 Environmental Setting

Hydrology

The Draft EIR provides historic data on low flows (as low as 1cfs). USGS gauges, particularly those which have been designed and equipped to provide mean daily flow data, are often not suitable to provide accurate stream flow information for such flows, and often under-report extremely low flows, or fluctuations such as diurnal changes which are common in small southern California streams. The DWR should verify the low flow patterns in upper Piru Creek through the installation of real-time records, or the periodic field checking of the existing gauges to ensure that the proposed simulated flows accurately reflect the lower flow portions of the hydrograph.

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Figures 3.1-6 through 3.2-6 The USGS gauge number(s) should be indicated on these figures so that it is clear from which gauges(s) the displayed data is derived.

Figure 3.2-6 This figure is the only graph which displays the historic range of flows before and after the construction of Pyramid Reservoir. However, the data is only monthly averages; it would be more useful if at least the daily mean flow was presented in this format to give a better sense of the timing, frequency, and duration of pre and post reservoir construction storm peaks.

Tables 3.2-1 through 3.2-4. Much of this data would be more readily understandable if it was presented graphically, rather than as columns of numbers.

3.2.4 Environmental Impacts and Mitigation Measures

Hydrology

See comment above under Project Description

The role of sub-surface flow in maintaining pools in the summer in the middle reach is not explicitly considered in the analysis. Like many southern California streams, Piru Creek exhibits an interrupted flow (i.e., alternately on and below the surface during any part of the year), not strictly an intermittent flow regime, and the lack of some low flow releases out of Pyramid during the summer could eliminate/reduce shallow groundwater flow which would result in the drying/lowering of pools which would not otherwise occur. DWR should monitor the role of shallow groundwater in the upper reaches of Piru Creek (as well as evaluate the geologic formations in the Pyramid Reservoir site and middle reaches) to determine what, if any, role groundwater may play in sustaining water elevations in pools during the summer and fall months. Regulated water releases from Pyramid should take into account any such contributions, particularly releases during naturally low flow summer and fall months.

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Sediment Transport

The Draft EIR acknowledges that the construction and operation of Pyramid Reservoir has significantly interrupted the natural flow of sediments, particularly bed-load and larger material, and that as a result long-term degradation of the stream channel would occur, thus attenuating some of the benefits to listed species such as the Arroyo toad. The conclusion that because channel degradation is an on-going process under the without-project condition, the impacts should be considered adverse but not significant, does not appear to be warranted under the requirements of the California Environment Quality Act to consider cumulative, as well as project specific impacts of a proposed action. It is also inconsistent with the identified benefits of the project. The Final EIR should include detailed monitoring of this long-term projected impact, which provides for adaptive management of this aspect of the project to assure the maintenance of benefits to Arroyo toad, and other native aquatic species which are dependent upon an adequate sediment supply.

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3.3.4 Environmental Impacts and Mitigation Measures

3.4. Recreation

Impact R-3: Altered Recreational Opportunities and Anglers

NOAA Fisheries recognizes the importance of freshwater recreational fisheries in southern California, and the importance of maintaining fisheries such as that provided in the middle reaches of Piru Creek. Stocking of hatchery reared fish into waters where populations of con-specific native fishes exist (whether resident or migratory) can have a number of adverse affects on the native fish populations, including introducing unnatural level of competition for food or space, introduction of disease, and potentially introgression (National Research Council 1996). Where such conflicts between sustaining a recreational fishery and protecting or restoring native fishes exists, efforts should be made to reduce or eliminate the conflicts. This can be accomplished through a number of means, including angling restrictions and stocking practices. In the past the Department of Fish and Game has limited angling to a catch and release fishery in the upper portion of the middle reaches of Piru Creek. Such a management strategy has served to protect a small population of native rainbow trout (which may also include residualized progeny of anadromous steelhead), while continuing to allow a harvestable fishery, supplemented by hatchery stocking, further downstream. An additional strategy that should be considered to further reduce impacts to native rainbow trout and residualized steelhead in the Piru Creek drainage is the stocking of triploid fish which are unable to successfully interbreed with the native fishes. (See comments above regarding recent genetics investigations of Piru Creek *O. mykiss*).

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4. Environmental Analysis of Project Alternatives

In general, the Draft EIR does not adequately characterize the interrelated and interdependence nature of water management within the Santa Clara River watershed, nor consider the environmental consequences of the proposed action in this broader context. The United Water Conservation District (UWCD) depends on water releases from Pyramid Dam, and as indicated in the Draft EIR, water releases from Pyramid Dam depend on water-surface elevation in Piru Lake. This interrelationship requires consideration of a comprehensive means of managing water and streamflows that transcends the proposed action. The Final EIR must consider the environmental consequences of the proposed action in light of the link among water users,

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urveyors, and native aquatic organisms within the Piru Creek drainage and the larger watershed of which it is a part.

The scope of the affected area identified in the Draft EIR is not adequate to deal with the interrelated and interdependent nature of the proposed project. The affected area should include at a minimum: Piru Creek from the base of Santa Felicia Dam downstream to the confluence with the Santa Clara River, and the Santa Clara River from the confluence with Piru Creek to the confluence with the ocean. The pattern and magnitude of streamflow in the mainstem of the Santa Clara River has substantial consequences for tributary-specific populations of steelhead such as Piru Creek. These mainstem flows in turn are strongly affected by the management of tributary flows such as Piru Creek. Winter flows attract steelhead trout and allow migration into mainstem habitats, and subsequently tributaries (e.g., Sespe, Santa Paula; Hopper, Piru Creeks) for spawning; high flows during spring allow juvenile steelhead to emigrate to oversummering habitat and the ocean. If the timing, frequency, magnitude or duration of streamflow releases from Pyramid Dam and (or) Santa Felicia Dam are not commensurate with the life history requirements of steelhead, adults may not be able to enter mainstem habitats or home tributary streams. Although the project location is removed from downstream habitats, the environmental consequences of the proposed action can be expected to extend downstream. (See enclosed letter from NOAA Fisheries to United Water Conservation District regarding relicensing of the Santa Felicia Hydroelectric project, dated December 22, 2004.)

The Draft EIR does not consider the consequences of the proposed action for populations of *O. mykiss* that may in the future serve a role in the recovery of endangered steelhead trout. Recovery prescriptions that arise from NOAA Fisheries' current recovery planning efforts may take advantage of the ecological value provided by contemporary populations that are presently within and beyond the present locations of Pyramid and Piru lakes. Thus, the interrelationship between the pattern and magnitude of streamflow within the action area, as well as the persistence of pools during summer, and abundance and distribution of *O. mykiss* in the middle reaches of Piru Creek should form part of the environmental analysis.

Finally, the Final EIR should propose a mechanism to manage numerous uncertainties related to the implementation of the proposed action. To address these uncertainties, the Final EIR should: (1) identify a process for measuring and detecting effects, including spatial and temporal changes in habitat quality and quantity, (2) include an outline of a compensatory mitigation program that will be implemented to offset effects, and (3) define a protocol that will track performance of the avoidance and compensatory-mitigation program, respond to new information or changing conditions, and detect and reconcile deficiencies or problems in a timely manner.

References

- Bryant, Greg. 2004. NOAA Fisheries, Area Recovery Coordinator, Personal Communication, 2004.
- Moore, Mark. 1980. An Assessment of the Impacts of the Improvements to the Vern Freeman Diversion on Anadromous Fishes of the Santa Clara River System, Ventura County. Prepared for the Ventura County Environmental Resources Agency Under Contract No. 670.

- Garza, Dr. John Carlos. 2005 NOAA Fisheries Southwest Region Science Center. Personal Communication, 2005.
- NOAA Fisheries. 1997. Status Review of West Coast Steelhead from Washington, Idaho, Oregon and California. NOAA Technical Memorandum NMFS-NWFSC-27.
- NOAA Fisheries. 2003. Updated Status Review of West Coast Steelhead from Washington, Idaho, Oregon and California
- NOAA Fisheries. 2004. Endangered and Threatened Species Designation of Critical Habitat for Seven Evolutionarily Significant Units of Pacific Salmon (*Oncorhynchus tshawytscha*) and Steelhead (*Oncorhynchus mykiss*) in California: Proposed Rule. December 10, 2004.
- National Research Council. 1996. Upstream: Salmon and Society in the Pacific Northwest. National Academy Press.
- Sweet, Dr. Samuel S. 2005. University of California, Santa Barbara. Personal Communication, 2005.
- U.S. Forest Service. 1994. Agua Blanca Creek Survey Notes. Los Padres National Forest.

RESPONSES TO COMMENTS

APPENDIX A. RESPONSES TO COMMENTS

The proposed project's Draft Environmental Impact Report (Draft EIR) was circulated for public and agency review from November 8, 2004 through January 7, 2005. During the review period written comments could be submitted in the form of a letter, facsimile (fax) or electronically (e-mail). The project was additionally discussed in a public meeting on December 16, 2004 at the City Council Chambers in the City of Santa Clarita, California. During the meeting the public and agency representatives were provided with the opportunity to comment on the Draft EIR.

During the Draft EIR's public and agency review period, written comments were received from eight parties. Table A-1 provides a listing of the commenting parties. During the proposed project's public meeting on the Draft EIR comments and questions were raised by two members of the public and the U.S. Forest Service, Angeles National Forest. One public party provided written comments during his presentation, and these comments are included in this Appendix and noted in Table A-1. Questions raised by the U.S. Forest Service focused on public notification of the proposed project's California Environmental Quality Act (CEQA) process; these questions were addressed at the meeting. Questions raised by the second public participant primarily focused on the presence of bullfrogs in middle Piru Creek, public noticing and distribution of the Draft EIR, and increased flood risks. These questions and comments were addressed at the meeting as well. A copy of the transcript of the December 16th meeting is provided at the end of this Appendix.

Comment letters received on the Draft EIR are presented in the first section of this Appendix. Specific comments of each letter are indicated numerically in the right-hand margin of the letters. Responses to these comments are contained in the second section of this Appendix. The responses cross-reference the corresponding comment numbers of each letter.

Table A-1. Written Comments on the Draft EIR

Commenter	Comment Number(s)
California Department of Health Services Southern California Drinking Water Operations Branch, Los Angeles Region	1
California Regional Water Quality Control Board, Los Angeles Region	2 - 4
California Department of Fish and Game South Coast Region	5 - 8
Ventura County Public Works Agency, Watershed Protection District	9
United Water Conservation District	10 - 19
California Trout	20 - 30
Mr. Joe Richey	31 - 36
United States Department of Commerce, National Oceanic and Atmospheric Administration National Marine Fisheries Service	37 - 50

**California Department of Health Services
Southern California Drinking Water Filed Operations Branch, Los Angeles Region
November 14, 2004**

1. In response to this comment, the California Department of Water Resources (CDWR) notified the CDWR's operators of the Vista del Lago Visitors Center surface water treatment plant of the proposed project. A copy of the CDWR internal memorandum, dated December 14, 2004 is provided at the end of this Appendix.

**California Regional Water Quality Control Board
Los Angeles Region
January 6, 2005**

2. The proposed project would not be a source of pollutants (please see Draft EIR Section 3.2.4). The proposed project does not include any new development, and it would not increase or otherwise modify existing sources and/or occurrences of pesticides, nitrogen, salts, or coliform. The only change associated with the proposed project is the timing of discharges into middle Piru Creek and Lake Piru. On an annual basis, the total discharged volume would remain unaffected. All project-related flows into middle Piru Creek would be delivered to and stored in Lake Piru, as is currently done. Santa Felicia Dam, the operation of which is not under the CDWR's authority, is not part of the proposed project. Santa Felicia Dam regulates discharges from Lake Piru into lower Piru Creek, and ultimately, the Santa Clara River. Operation of Santa Felicia Dam would only be affected by the proposed project in high rain years, when inflow into Lake Piru might temporarily exceed the reservoir's storage capacity.

3. As noted in response to Comment 2, above, the proposed project would not change flows into the Santa Clara River. Consequently, there would be no change in the assimilative capacity of the Santa Clara River for the constituents referenced above.

4. As noted in response to Comment 2, above, the proposed project would not affect flows into the Santa Clara River; therefore, there would be no change in groundwater surface contributions to the Santa Clara River system. The requested estimates are not considered relevant to the technical scope of the Draft EIR.

**California Department of Fish and Game
South Coast Region
December 29, 2004**

5. As identified in Draft EIR Section 3.1.4 (Environmental Impacts and Mitigation Measures for Biological Resources), current conditions at many locations on middle Piru Creek are not favorable for southwestern pond turtle. Artificially supported high current velocities, dense vegetation, and large numbers of aquatic predators have already produced conditions that likely affect the recruitment and survival of this species in these areas. Preliminary surveys conducted by CDWR biologists on middle Piru Creek in 2003 and 2004 between Frenchman's Flat and Pyramid Dam in support of the Piru Creek Erosion Repairs Project Mitigated Negative Declaration (2003) indicated the area supports small numbers of older age class turtles. No juvenile turtles were found during these surveys, and no juvenile turtles have been found during repeated surveys conducted in the general area except for one juvenile pond turtle that was located in a shallow pool in an ephemeral tributary to middle Piru Creek.

The CDWR agrees that reduction in stream flow during dry summer months may lead to the formation of small pools and refugia for this species, which could increase the potential for disturbance by humans or predators. However, it should be noted that with the exception of the driest years, when little or no stream flow would occur, stream gauge data suggests that some flow into middle Piru Creek would probably continue throughout the summer. In the event that reduced inflow resulted in the drying of some sections of the creek, this would affect only a small section of middle Piru Creek (less than 4 miles of the 18 mile reach). In addition, only a small section of this area is subject to large numbers of summer visitors and of this small section, only a limited area is readily accessible to pedestrian travel due to the steep hillsides and rocky, boulder-dominated shoreline. Under the current summer conditions (augmented summer flows), the California Department of Fish and Game (CDFG) does not stock trout in the creek and few anglers have been recorded between Frenchman's Flat and Pyramid Dam. In addition, while recreational users would probably focus their attention on the few remaining rocky pools containing summer water, most of these sites lie in sections that do not appear to contain southwestern pond turtles at this time. Likewise, Section 3.4 (Recreation) of the Draft EIR indicates that decreased summer flows would probably result in an overall decrease in the number of summer and fall visitors who use middle Piru Creek for water activities. Although some turtles could continue to be affected by human disturbance, the reduction in aquatic predators, increase in potential habitat, and restoration to natural stream conditions would not result in significant impacts and may ultimately provide beneficial impacts to this species.

6. Please see response to Comment 5. The CDWR believes that implementation of the proposed project may ultimately result in benefit to southwestern pond turtles in middle Piru Creek. However, the CDWR agrees that obtaining additional information regarding the population dynamics of this species might potentially provide useful scientific information that could lead to a better understanding of the species; therefore, the CDWR will continue to work with the CDFG to assess the feasibility and methodology of the studies recommended by the CDFG.

7. The primary objective of the proposed project is to avoid incidental take of the federally endangered arroyo toad as a result of water operations at Pyramid Dam. Simulation of natural flows in middle Piru Creek would achieve this objective by restoring natural stream dynamics, reworking sediments in the channel, and reducing populations of exotic aquatic predators. As noted in the Draft EIR Section 3.2 (Water Resources), simulation of natural flows on middle Piru Creek would probably result in increased sediment transport downstream of Pyramid Dam. However, this is an ongoing condition that currently occurs under the existing flow regime. It is estimated that to replace the sediment loss into middle Piru Creek, approximately 100,000 to 250,000 cubic yards of sediment would have to be imported into the creek below Pyramid Dam. This would require approximately 10,000 truck trips a year, with corresponding environmental impacts, and it would be difficult to ensure that the sediment was spread in a manner to facilitate the proper and timely transport to downstream reaches.

Although simulating natural flows would have the potential to increase sediment loss in the uppermost portion of middle Piru Creek, arroyo toads are not known to occur in this area, and it is expected that sediment from adjoining tributaries would support suitable habitat further downstream for many years to come. In addition, current conditions associated with the existing flow regime do not provide favorable conditions for this species. As the proposed project is considered beneficial to the arroyo toads, sediment loss is currently ongoing under existing conditions, and it is speculative as to ascertain when/if the proposed project would result in future losses to this species; the CDWR does not believe that monitoring arroyo toad habitat is warranted at this time but is willing to continue discussions with

the regulatory agencies about the need and methodology for potential future periodic monitoring of special status species and their habitat along middle Piru Creek.

8. Following receipt of the CDFG's comment letter on the proposed project's Draft EIR, the CDWR initiated discussions with the CDFG to further discuss the need for a Streambed Alteration Agreement. In these discussions it was mutually agreed on that a Streambed Alteration Agreement would not be required. A follow-up letter regarding this agreement from the CDFG to CDWR, dated January 20, 2005, is included at the end of this Appendix.

**Ventura County Public Works Agency
Watershed Protection District
November 11, 2004**

9. The CDWR does not own, operate, or maintain Lake Piru and recommends that the Ventura County Watershed Protection District (VCWPD) coordinate with the United Water Conservation District (United) regarding schedules or quantities of water releases from Lake Piru.

**United Water Conservation District
January 6, 2005**

10. The CDWR would like to clarify several statements made in the first paragraph of the United comment letter regarding CDWR's operations related to the release of minimum flows as proposed by the CDFG and other agencies following the 1994 federal listing of the arroyo toad as endangered. United holds several State Water Regional Control Board (SWRCB) permits and licenses that grant United rights to all stormwater runoff in the Piru Creek watershed that can be put to beneficial use. The CDWR releases United's stormwater runoff from the portion of the watershed above Pyramid Dam into middle Piru Creek. The water then flows into Lake Piru, which is owned and operated by United. Under conditions when Lake Piru is spilling and there is continuous surface flow from the spillway of Santa Felicia Dam (which forms Lake Piru) past the Freeman Diversion Dam to the Pacific Ocean, CDWR has appropriative water rights for up to 55,000 acre feet per year (afy) of storm runoff from the Piru Creek watershed. Current operations at Pyramid Lake are in conformance with the CDWR's April 14, 1967 Agreement with United for the operation of Pyramid Dam, which governs the release of local water into Piru Creek. That agreement provides for the recovery of any over-release of local flows to Piru Creek from the next following storm flows. This allows CDWR to recover any release of water beyond natural flows that are made during the summer in order to comply with minimum fish flow requirements. This recovery of an over-release is distinct from CDWR appropriating local flows under its existing water rights. The CDWR cannot appropriate water from Piru Creek under its existing water rights until all downstream demands are met. CDWR has appropriated water from Piru Creek in only five of the past twenty-two years, all of which were very wet years when United was unable to put the additional flow to beneficial use. If averaged, CDWR appropriations from Piru Creek are less than 10,000 afy.

11. Comment noted. United's use of water downstream from middle Piru Creek was not addressed because the proposed project is not anticipated to result in alteration of United's operations. The proposed project is limited to the simulation of natural flow in middle Piru Creek from Pyramid Dam to Lake Piru and the delivery of currently contracted for State Water Project supplies to United. The total quantity of water released into middle Piru Creek from Pyramid Dam would not change in most years. The CDWR has historically appropriated water from Piru Creek only in wet years when Lake Piru is full and Freeman Diversion Dam is spilling. The increase in water released to Piru Creek at these times

would result in additional flows downstream of Santa Felicia Dam during high flow periods but would not alter United's water supply operations. Therefore, a detailed description and analysis of the downstream uses of water released from Santa Felicia Dam is considered to be outside of the scope of this EIR.

12. At the June 23, 2003 meeting cited by United, the United States Fish and Wildlife Service (USFWS) agreed that late spring storm flows in May 2003 washed away arroyo toad eggs and tadpoles in middle Piru Creek. However, USFWS opined that, had CDWR matched stream releases after the storms to the receding limb of the hydrograph for natural inflows in Pyramid Lake, the adult toads that had retreated to higher ground may have returned to the creek as flows declined and may have resumed breeding. Instead, the sustained high flows may have prevented the toads from further breeding during the 2003 breeding season. Alternatively, USFWS opined, if the toads did lay additional eggs after the May 2003 storm, the eggs or tadpoles may have been stranded when stream releases dropped back down to 25 cubic feet per second (cfs) upon completion of water deliveries to United. Nancy Sandburg, a biological consultant to United, found evidence of reproductive success by arroyo toads on Agua Blanca Creek, a tributary to Piru Creek, after the May 2nd and 3rd 2003 storm. This supported USFWS's conclusion that, had flows quickly been reduced to 25 cfs, the operations standard at that time, arroyo toads might have successfully reproduced in Piru Creek in 2003. As noted in its comment letter, United requested that flows be kept steady after the storm event for the purpose of water delivery. Therefore, based on its understanding at the time, erroneous in hindsight, that avoiding fluctuations in stream flows to the extent possible was of paramount importance during the arroyo toad breeding season, CDWR kept stream releases at a higher level after the May 2003 storm until water deliveries to United had been completed, rather than first dropping down to 25 cfs, then increasing flows again later in the season to deliver water.

13. The CDWR has a long term water supply contract with the VCWPD, which has a maximum Table A allocation of 20,000 acre feet of State Water Project water. VCWPD assigned administration of the agreement to Casitas Water District (CWD). Within VCWPD 5,000 acre feet (af) is assigned to CWD, 10,000 af to the City of San Buena Ventura and 5,000 af to United. Thus, United has a contractual right to receive up to 5,000 af of State Water Project water each year. 1,850 af of that amount is released to Port Hueneme through the VCWPD turnout at Castaic Lake.

United received a total of 4,047 af of State Water Project water through middle Piru Creek in 2004, which was a combination of United's Table A allocation of 3,150 af (5,000 af less 1,850 af released to Port Hueneme from Castaic Lake), of which the CDWR was able to deliver 2,047 af based on its allocation for the year, and United's one-time purchase in 2004 of an additional 2,000 af from the VCWPD. The 2004 request from United did not include a request for a permanent increase in State Water Project deliveries. To date, the CDWR has not received such a request from VCWPD or United, and is unaware of any contract negotiations between the parties to secure an additional portion of VCWPD's 20,000 af Table A amount.

During the proposed project's scoping period United suggested that the Draft EIR evaluate deliveries of up to 20,000 af of State Water Project water to Lake Piru via middle Piru Creek. As referenced in the proposed project's Notice of Preparation (NOP) and Draft EIR, the primary purpose of the proposed project is to avoid the incidental take of the arroyo toad due existing ("baseline") operations of Pyramid Dam. An additional purpose of the proposed project is to maintain the current ("baseline") delivery of up to 3,150 af of State Water Project Table A water to United via middle Piru Creek (please see Draft EIR Section 2.2.2). The proposed project was developed and is being pursued by the CDWR to ensure compliance with the FESA. It is not intended to evaluate the entire range of potential future deliveries

of State Water Project water to United. United is not precluded from making future requests to increase State Water Project deliveries via middle Piru Creek; however, it will be responsible for evaluating the potential impacts of the increased deliveries consistent with CEQA.

Incorporating United's request into the proposed project would have required additional inter-agency discussion and concurrence prior to moving forward with preparation of the Draft EIR. The suggested modification also had the potential to trigger the need for re-circulation of the Draft EIR's NOP and extension of the document's scoping period. Such delays in the proposed project's CEQA review process would have conflicted directly with the USFWS's timeframes for FESA compliance.

14. The long-term water supply agreement between VCWPD and CDWR contemplates Castaic Dam, in Reach 30 of the California Aqueduct, as the primary point of delivery for VCWPD's State Water Project water. Under Article 10 of that agreement, VCWPD may request additional points of delivery, subject to approval by CDWR, and shall pay all costs of the additional point of delivery. As discussed above, United, to CDWR's knowledge, currently has a derivative contractual right to up to 5,000 afy of State Water Project water, 1,850 af of which is delivered to Port Hueneme at VCWPD's turnout at Castaic Dam. If United or any other Ventura County water agency/purveyor were to formally propose a long-term yearly increase of up to 20,000 afy of State Water Project water deliveries by altering Pyramid Dam's existing water operations, it is likely that any such increase would have potential environmental impacts and would require environmental analysis under CEQA. As noted above, analysis of the potential environmental impacts of more than 3,150 afy of State Water Project deliveries into middle Piru Creek are considered to be outside of the scope of the EIR prepared for the proposed project.

Typically, if a State Water Project contractor requests a change in point of delivery or other operational change that benefits only one or two contractors and requires CEQA evaluation, the requesting contractor(s) act as lead agency for CEQA purposes and finance the analysis. The rationale is that the individual contractors are more familiar with the water needs in their area and the primary benefit of the proposed project accrues to them and not the State Water Project as a whole. It is necessary to work closely with CDWR to assure that analysis of the effects on the State Water Project as a whole are addressed in any environmental documentation prepared. On April 17, 2002, the CDWR provided a comment letter on the 2002 Draft Negative Declaration to United, which outlined the CDWR's questions and concerns. One comment was that the CDWR was not requested to provide input into the Draft Negative Declaration during its preparation and that close coordination would have allowed a number of concerns related to State Water Project operations to be addressed prior to release of the Draft Negative Declaration. CDWR does not believe its actions with respect to the proposed project are inconsistent with previous actions taken with respect to United's 2002 Piru Creek State Water Release Project.

15. An analysis of the potential beneficial and adverse impacts of increasing flows to allow additional State Water Project deliveries down Piru Creek is beyond the scope of this analysis for the reasons set forth in responses to Comments 13 and 14. Although it is possible that increasing winter releases into the creek to accommodate additional State Water Project water deliveries to United may provide some beneficial impacts to biological resources, as outlined in Draft EIR Section 7.3, increasing flows during the winter months to accommodate a 20,000 afy State Water Project water delivery to United would increase flood hazards and have adverse effects on overall channel degradation and erosion.

16. The intent of the discussions in Section 7.3 for Agricultural Resources and Population and Housing is to disclose to decision makers and the public that: (1) impacts to these resources could potentially occur; (2) their degree of significance cannot be fully identified within the context of this EIR; and (3) there would be opportunity to address and consider these impacts with greater certainty in a separate environmental review document specific to the increase if a formal request for the increase is made by United. Disclosure of such issues to decision makers and the public is a fundamental purpose of CEQA and considered appropriate for the purposes and use of this EIR (please see Public Resources Code, Division 13 [CEQA], Sections 21002 and 21002.1). The discussions in Section 7.3 for Agricultural Resources and Population and Housing both note that assessing potential impacts to these resources by increasing United's State Water Project water deliveries to 20,000 afy are difficult to forecast, either individually or cumulatively, without knowledge of a specific implementation plan. Such a plan has not been formally proposed by United. The discussions in Section 7.3 also note that undue speculation regarding the assessment of impacts is discouraged under CEQA (CEQA Guidelines Section 14145). CDWR acknowledges that a detailed analysis of these impacts could require a regional evaluation of United's existing and planned water uses, as well as regional evaluation of all other existing water sources, planned development projects, and existing and projected agricultural operations and production downstream of Lake Piru. Such an analysis is outside the scope of this EIR.

17. The first sentence on page 7-8 is focused on those projects listed in Table 7-1 that would not foster (induce) population growth or displace existing housing. It is not intended to infer that the Increased State Water Project Deliveries to United Project would displace housing. The first full paragraph of page 7-8 addresses potential impacts of the Increased State Water Project Deliveries to United Project and states that these impacts are focused on the potential to induce population growth. Per response to Comment 16, above, a comprehensive analysis of the potential impacts of the Increased State Water Project Deliveries to United Project on housing and population is beyond the scope of this EIR, and such an assessment would be highly speculative.

18. As noted in response to Comment 16, above, the impacts for Water Resources as they relate to the Increased State Water Project Deliveries to United Project are difficult to assess due to a lack of information. However, based upon the assumptions stated in this discussion, a quantitative analysis, to the extent possible, was conducted. The conclusion that impacts could be potentially significant is based upon the additional risk to humans that would occur under this project. As stated in the Draft EIR (Section 3.2.4) increases of 50 cfs or greater are considered to significantly increase flood hazard risks and this would occur if the Increased State Water Project Deliveries to United Project was implemented.

In addition to the above, it is noted that under CEQA the discussion of cumulative impacts "need not provide as great detail as is provided for the effects attributable to the project alone" (CEQA Guidelines Section 15130 [b]). In the event that United or VCWPD do at some future time formally request increased water deliveries via Piru Creek, the lead agency would need to examine potential environmental impacts in much greater detail than is required in the cumulative impacts analysis presented in the proposed project's Draft EIR.

19. The CDWR recognizes that State Water Project water deliveries to United via Castaic Creek would not be a preferred solution. The option of making deliveries to United via Castaic Creek was included because it (1) is a physically feasible alternative if deliveries could not be made via middle Piru Creek, and (2) could be a viable alternative if these deliveries were scheduled to occur during periods when water loss due to ground percolation is at a minimum. The intent of the Table 7-1

footnote is to document that this route of delivery is a potential alternative but that it is not assessed in Section 7.3 of the Draft EIR.

California Trout
January 5, 2005

20. Draft EIR Section 3.1 (Biological Resources) includes information pertaining to federally listed species known to occur in middle Piru Creek. Santa Felicia Dam has blocked access by anadromous species to and from the ocean since 1954. Consultation with the CDFG indicated that steelhead trout are not believed to be present in middle Piru Creek, and any steelhead trout trapped by construction of Santa Felicia Dam would have been genetically diluted long ago by rainbow trout planted by the CDFG in Piru Creek and Lake Piru. The National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA-Fisheries) did not respond to the NOP or send a representative to the public scoping meeting held in Santa Clarita on June 17, 2004. NOAA-Fisheries' December 10, 2004 proposed rule on critical habitat for steelhead trout characterizes Piru Creek upstream of Santa Felicia Dam as inaccessible and unoccupied habitat and seeks public comment on whether the area should be designated critical habitat. If it were determined that the species was present in middle Piru Creek or its tributaries, the restoration of natural flows, a condition in which this species evolved, would not be expected to result in adverse impacts to this species.

It is conceivable that remnant populations of steelhead trout could occur in tributaries of Piru Creek such as Agua Blanca Creek. However, the proposed project would not affect flows in Piru Creek's tributaries, and restoration of the natural flows in Piru Creek under which steelhead trout evolved would not be expected to result in adverse impacts to steelhead trout even if present.

21. The Draft EIR has met the requirements of CEQA Section 15003(d) by providing information regarding known sensitive species occurring in middle Piru Creek. Information known at the time the document was prepared did not indicate the presence of federally endangered species other than those identified in the Draft EIR. The information on steelhead trout presented in this and the NOAA-Fisheries comment letter on the Draft EIR does not change the conclusions reached in the Draft EIR.

22. The Draft EIR was prepared in accordance with the requirements of the FESA. NOAA-Fisheries was sent a copy of the NOP of a Draft EIR for the proposed Simulation of Natural Flows in Middle Piru Creek project and did not respond to it (please see Draft EIR Section 1.2.1 and page 3 of the CEQA distribution list found in Appendix A of the Draft EIR). The proposed ruling on critical habitat for the steelhead trout was not published until after the Draft EIR was released for public review. There appears to be some disagreement regarding the presence of steelhead trout upstream of Santa Felicia Dam between the information that CDWR received from CDFG and the NOAA-Fisheries proposed ruling. The public comment period on the proposed critical habitat designation continues until February 28, 2005, and NOAA-Fisheries will not issue a final rule until some time after that. In the event that middle Piru Creek is, at some future time, designated as critical habitat for steelhead trout, the CDWR and/or the Federal Energy Regulatory Commission (FERC) will consult and coordinate with NOAA-Fisheries and other agencies as appropriate. For additional information regarding this issue, please see the response to Comment 40.

23. Sections 3.2 (Biological Resources) and 3.2 (Water Resources) of the Draft EIR describe the historic conditions that once occurred in middle Piru Creek. It should be noted that steelhead trout evolved under dynamic natural stream conditions. Implementation of the proposed project would mimic

these natural conditions in middle Piru Creek to the extent operationally feasible and consistent with safety considerations.

Implementation of the proposed project would simulate natural flows in middle Piru Creek, which would include periods of reduced flow occurring during late summer and fall and periods of intense but short flow resulting from large winter storms. Under natural pre-dam stream conditions, it is highly likely that in dry years sections of middle Piru Creek had no active stream flow for periods of one to three months at a time. It is likely that historic runs of steelhead trout sought thermal refuge in smaller tributaries or upstream sections of Piru Creek during these periods. Access to these tributaries would remain with implementation of the proposed project, with the exception of tributaries above Pyramid Lake which have been blocked by Pyramid Dam. Restoring natural stream flow conditions in middle Piru Creek would result in the reestablishment of the natural stream processes that are required for development of suitable habitat for native species, including the redistribution of spawning gravels in lower sections of middle Piru Creek. Restoring natural stream processes would not eliminate native food resources for trout and would reduce populations of exotic species known to prey on native fishes and amphibians.

24. Pursuant to CEQA and FERC’s consultation requirements for draft requests for license amendment, NOAA-Fisheries has been notified about the proposed project throughout the CEQA process. This is documented in Draft EIR Section 1.2.1 and on page 3 of the proposed project’s CEQA distribution list (please see Draft EIR Appendix A). Comments (and their respective responses) on the proposed project’s Draft EIR submitted by NOAA-Fisheries are presented in this Appendix.

25. Pyramid Dam was built in 1973, and from then through 1995 stream releases into middle Piru Creek were governed by Article 52 of the license for FERC Project No. 2426, which required substantial daily fluctuations in stream flows based on predicted air temperatures. From 1996 until March 2004, summer stream releases were kept steady at 25 cfs; since then, a slightly modified version of the 25 cfs regime, as approved by USFWS, has been in effect. To average stream release data across periods with such different flow regimes, both natural and managed, would not be scientifically valid. The six year period referred to in Comment 25 was used as the project baseline because this is the period during which current operation protocol of the Pyramid Dam has been in effect. Data for inflow into Pyramid Lake are presented for the same six-year period to provide a legitimate comparison of inflows and outflows under baseline conditions. Where appropriate and scientifically valid, the Draft EIR includes and analyses hydrologic data for longer periods of time.

The current operation protocol is the legitimate basis of comparison and is consistent with the CEQA Guidelines (CEQA Guidelines Section 15126 [a]). A hydrologic analysis dating back to 1976, as requested in Comment 25, was in fact done but not presented in the Draft EIR for the above reasons. Had it been included, it would not have changed the conclusions of the impact analysis. According to this historic analysis, monthly flows into Pyramid Lake, adjusted for watershed area, for the period 1977 through 2002 are as shown in Table A-2.

Table A-2 Monthly Flows into Pyramid Lake, 1977 through 2002

Month	Average Monthly Inflow (in cfs)
January	89
February	255
March	206
April	103
May	55

Month	Average Monthly Inflow (in cfs)
June	24
July	13
August	8
September	9
October	9
November	12
December	27

26. The California Regional Water Quality Control Board (RWQCB) Section 1243 states that “the use of water for recreation and preservation and enhancement of fish and wildlife resources is a beneficial use of water. In determining the amount of water available for appropriation for other beneficial uses, the board shall take into account, whenever it is in the public interest, the amounts of water required for recreation and the preservation and enhancement of fish and wildlife resources. The board shall notify the Department of Fish and Game of any application for a permit to appropriate water. The Department of Fish and Game shall recommend the amounts of water, if any, required for the preservation and enhancement of fish and wildlife resources and shall report its findings to the board. This section shall not be construed to affect riparian rights.”

The CDWR proposes to implement a water release schedule that closely mirrors the natural stream conditions of middle Piru Creek. This action is intended to benefit native wildlife while maintaining a winter put and take trout fishery. The CDWR has coordinated (please see Draft EIR Section 1.2.1), and will continue to coordinate with the CDFG throughout the proposed project’s implementation. Comments submitted by the CDFG and RWQCB on the proposed project and its Draft EIR are presented in this Appendix. Neither agency has expressed concern regarding coldwater habitat.

27. In its comment letter on the Draft EIR (presented in this Appendix), the RWQCB did not indicate that Water Quality Certification (WQC) for the proposed project would be required. As described on page 3 of the Notice of Availability (NOA) prepared for the Draft EIR, if the CDWR certifies the Final EIR and approves the proposed project pursuant to CEQA, it will submit a request for license amendment to the FERC. The FERC will then conduct its own environmental review process before approving or denying a request for license amendment; the CDWR trusts that the FERC is fully cognizant of its responsibilities under NEPA, FESA, and other environmental laws and regulations.

28. As indicated in Draft EIR Sections 1.2.1 and 2.2.1 the primary purpose of the proposed project is to avoid the incidental take of the arroyo toad, thereby negating the need for Section 7 consultation under FESA. As noted in response to Comments 20 and 22, above, Section 7 consultation with NOAA-Fisheries for steelhead trout is not considered necessary at this time. If the CDWR certifies the Final EIR, approves the proposed project, and requests amendment of its FERC license, the FERC will have the option of initiating consultation, if necessary, as part of its environmental review and license amendment process (please see responses to Comments 29, 37 and 40).

29. If the CDWR were to wait until NOAA-Fisheries issues a final rule on critical habitat for steelhead trout, and then requests formal consultation regarding this species, it would in the meantime find itself responsible for incidental take of another federally endangered species, the arroyo toad. NOAA-Fisheries’ proposed critical habitat rule, published December 10, 2004, describes Piru Creek upstream of Santa Felicia Dam as inaccessible and unoccupied habitat. Even if remnant populations of

steelhead trout were present in tributaries of middle Piru Creek, such as Agua Blanca Creek, simulation of natural flows in the main stem of middle Piru Creek would not be expected to have an adverse effect on the fish in these tributaries. Should middle Piru Creek be designated as critical steelhead habitat, the FERC or CDWR will request consultation as appropriate at that time.

30. Please see responses to Comments 20 through 29, 40 and 48.

Mr. Joe Richey

December 16, 2004

Written Notes Submitted at Public Meeting on Draft EIR

31. The proposed project's NOP and notification regarding its public scoping meeting were advertised on May 21, 2004 in the Los Angeles Times, The Signal, Antelope Valley Press, Bakersfield California and the Tehachapi News (May 26, 2004). In addition, notification was posted at Frenchman's Flat and sent to local bait and fishing shops with a request for posting. Prior to release of the Draft EIR, private property owners adjacent to the creek were added to the proposed project's CEQA distribution list (please see Appendix A of the Draft EIR). All private land owners with property adjacent to the creek were sent a copy of the proposed project's NOA and the Draft EIR. Newspaper advertisements regarding the NOA, Draft EIR and December 16, 2004 public meeting began on November 8, 2004 in the Los Angeles Times and Ventura County Star. They were published for four consecutive weeks. This notification was also posted at Frenchman's Flat and sent to local bait and fishing shops with a request for posting.

32. No formal contact with the property owner was made prior to or during the proposed project's cultural resources surveys. The regulations for cultural resources investigations do not require contact with property owners unless a standing structure of potentially historic significance is directly within a proposed project's Area Potentially Effected (APE). None of the private properties within the proposed project's APE meet this criteria; therefore, contact prior to the surveys was limited to individuals and groups identified for Native American interests (please see Appendix B of the Draft EIR).

33. The road referenced on page 3-84 is a road indicated on the area's U.S. Geological Survey (USGS) Quadrangle that parallels the creek and is blocked by a U.S. Forest Service gate. As the pedestrian surveys for cultural resources moved northward up the creek, traces of this road become progressively more difficult to discern and eventually could no longer be identified. The road referenced in the Draft EIR and the road referenced in Comment 33 are two different roads; the road referenced in this Draft EIR discussion is not the property owner's access road crossing the creek.

34. The Draft EIR discussion quoted in this comment is specific to cultural resources; it is not directed toward potential impacts to the property owner's existing access road due to high flows and erosion. Section 3.2.4 of the Draft EIR addresses the proposed project's potential impacts due to increased flows and erosion and notes that these impacts could be potentially significant. Mitigation Measure H-3 is proposed to mitigate these impacts on existing infrastructure.

As discussed with the property owner at the December 16, 2004 public meeting on the Draft EIR, high stream releases of Pyramid Dam similar to those proposed have occurred in years other than 1998. Although high stream flows could damage the property owner's creek-crossing road, it is noted that tributaries of middle Piru Creek, over which the CDWR does not have any control, contribute roughly 30 percent of the inflow into Lake Piru. The proposed operations guidelines do stipulate that storm-

generated stream releases from Pyramid Dam into middle Piru Creek can be reduced if the full natural flow is deemed a threat to life, safety, or property downstream of the dam.

35. Plant and animal life on middle Piru Creek evolved under a variety of changing stream conditions. This included periods of intense rainfall, which resulted in large sections of the creek being scoured clean of vegetation and periods of drought where little if any flow occurred for several months at a time. Under pre-dam conditions middle Piru Creek supported a number of native fish species including a winter run of steelhead trout. It should be noted that native fishes and their prey items (insects, small crustaceans, and other fish) also evolved under changing natural stream conditions and the implementation of the proposed project would mimic the conditions under which these species evolved. Native riverine species also possess life history traits that enable individuals to survive and reproduce under a range of environmental variation. Invertebrates, including insects, would not be eliminated from middle Piru Creek under natural stream conditions since suitable habitat and refugia would continue to exist or even be enhanced at many locations in the watershed.

Creel census surveys were conducted on middle Piru Creek between Frenchman's Flat and the area below Pyramid Dam to document recreational fishing in the catch and release area above the concrete weir and in the put-and-take trout fishery stocked by the CDFG near Frenchman's Flat. Angler surveys focused on this section of middle Piru Creek for a number of reasons including: the survey taker's ability to interview a large percentage of the recreational anglers who fish middle Piru Creek; the fact that most anglers and hikers begin their activities from the parking area at Frenchman's Flat; and the area's close proximity to the catch and release area. Conducting creel census surveys above Lake Piru or in the back country sections of middle Piru Creek was not considered practical or feasible because of the small number of anglers that likely use these areas, their distance from the put-and-take trout fishery stocked by the CDFG, and restricted access. Due to the closure of Bluepoint Campground, located above (north of) Lake Piru, access to this section of the creek by recreational anglers is now restricted. Although recreational angling does occur in these areas (e.g. by hikers and people with private inholdings), the area probably supports only a limited number of anglers who either have access to the gate keys or are willing to hike the many miles into the backcountry. Information obtained during the creel census surveys did include anglers who hiked several miles downstream of Frenchman's Flat seeking recreational opportunities. Anglers and hikers interviewed during the surveys noted that few if any other anglers were ever observed during hikes of middle Piru Creek.

36. As discussed in Section 2.2.1 of the Draft EIR, the proposed project was developed based on consultation of the USFWS and information provided by Dr. Sam Sweet from the University of California at Santa Barbara, who actively participated in the agency stakeholder meetings in which the proposed operations guidelines were developed. The simulation of natural flows is intended to restore natural stream dynamics to prevent the incidental "take" of arroyo toad, a federally endangered species, known to occur in sections of middle Piru Creek. In fact, it was the CDWR's efforts to keep stream flows as steady as operationally feasible in the late spring of 2003, as discussed in the response to Comment 12 above, that precipitated the development of new proposed operations guidelines to prevent incidental take of the arroyo toad.

Stream flow is one of several factors that affect the survival of the arroyo toad and other native species in and along middle Piru Creek. As discussed in Section 3.2 (Water Resources) of the Draft EIR, other factors include the timing of the stream flow, regular disturbance from winter storms, the distribution of sediments required for breeding, and the presence of exotic predators such as large mouth bass, bullfrogs, and red crayfish. Arroyo toads require slow moving water for breeding, placement of egg

masses, and rearing of juvenile toads. Under current stream conditions, augmented summer flows lead to the decline of suitable habitat for this species in many sections of middle Piru Creek.

**United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
January 11, 2005**

37. Please see response to Comment 28, above. Should the FERC determine that consultation regarding the steelhead trout or arroyo toad is warranted for the proposed project, it will coordinate with NOAA-Fisheries and USFWS, as appropriate, during its environmental review process prior to approving or denying the request for license amendment.

38. Water deliveries to Lake Piru via middle Piru Creek are discussed in Section 2.3 (Proposed Project) of the Draft EIR. Under the proposed project the CDWR intends to simulate natural flows along middle Piru Creek to the extent that is operationally feasible and consistent with safe operating procedures. The stream gauges upstream of Pyramid Lake record staff gauge readings every 15 minutes. These readings are first converted into instantaneous stream flows based on the cross-sectional profile of the stream at the gauge, then into 24-hour averages. The terms of the CDWR's FERC license require CDWR to maintain these stream gauges and record data according to the standards of the USGS, which are based on collecting data at 15-minute intervals. CDWR then further refines the data by using a multiplier to account for natural inflow into Pyramid Lake from drainages without stream gauges. Furthermore, continuously matching outflow with natural inflow, or even adjusting outflow every 15 minutes, would not be operationally feasible and would require a system not currently in place at the Pyramid Dam facility. The facility consists of a remotely operated system that is not continuously adjusted. The CDWR normally adjusts stream releases into middle Piru Creek during daily operations; during storm events, outflow may be adjusted a few times over the course of a day. Matching the exact natural inflow at any given instant, or every 15 minutes, would require CDWR to maintain staff on a continuous basis at the control valves to regulate each change of inflow.

39. Pursuant to CEQA, the Draft EIR reflects "baseline" conditions as they existed at the time the NOP was published (May 19, 2004), which is many years after construction of Santa Felicia Dam. Construction of Santa Felicia Dam cut off access to and from the ocean by anadromous species and predates Pyramid Dam by almost two decades. The simulation of natural flows that would result from implementation of the proposed project is expected to benefit natural communities within middle Piru Creek, located between the Pyramid Dam and Lake Piru. The CDWR does not control the release of water from the Santa Felicia Dam and no changes to the existing release operations of this dam are proposed as part of the project. Therefore, implementation of the proposed project would not affect the Piru Creek downstream of Lake Piru or the Santa Clara River.

40. The Draft EIR Section 3.2 (Biological Resources) indicates that naturally breeding rainbow trout do occur in middle Piru Creek, and the CDWR has no issue with NOAA-Fisheries' statement that historically, prior to construction of Santa Felicia Dam in 1954 and the Vern Freeman Diversion, Piru Creek supported runs of steelhead trout, including runs in the Piru Creek watershed upstream of Santa Felicia Dam. There appears to be some disagreement among subject matter experts on the continued presence of steelhead trout upstream of Santa Felicia Dam. As previously stated, the CDFG does not believe steelhead trout to be present in middle Piru Creek; and, although the comment letter states that remnant populations of the species may survive in middle Piru Creek or its tributaries, NOAA-Fisheries' proposed rule on critical habitat describes Piru Creek upstream of Santa Felicia Dam as

inaccessible and unoccupied habitat. According to the proposed rule, an area currently lacking physical or biological features essential to the conservation of the species under consideration cannot be designated as critical habitat in the hope that the area may acquire the necessary features at some future time. However, current blocks to anadromy have been in place for over 50 years and based on information obtained from the CDFG and USFWS during the development of the Draft EIR, the CDWR did not believe that steelhead trout were present in middle Piru Creek. There will be an opportunity to consult and coordinate further with NOAA-Fisheries, the USFWS, and other agencies as necessary regarding any federally listed species or their critical habitat during the FERC license amendment process.

It should also be noted that the CDFG has been planting 3,000 pounds of rainbow trout annually at Frenchman's Flat (located downstream of Pyramid Dam and upstream of Santa Felicia Dam [Draft EIR Figure 2-2]) for many years. It appears highly probable that any steelhead trout trapped by construction of Santa Felicia Dam in the 1950s have interbred with hatchery-bred rainbow trout of a genetic strain not native to Piru Creek. Indeed, CDFG fishery biologists have advised the CDWR that the population of resident, naturally reproducing trout immediately downstream of Pyramid Dam is of hatchery origin.

41. Please see response to Comment 40.

42. Please see responses to Comments 40 and 44.

43. During development of the proposed project and preparation of the Draft EIR it was not believed that steelhead trout were present in middle Piru Creek, but that existing fish were of hatchery origin. The CDWR intends to amend the current operating license to reflect the simulation of natural flows as identified in the Draft EIR. Should the FERC conclude that consultation with the NOAA-Fisheries is warranted for the steelhead trout during its environmental review and license amendment processes, it will proceed with such consultation as warranted.

44. The CDWR agrees that implementation of the proposed project would result in beneficial impacts to native species on middle Piru Creek. Potential native stocks located in the tributaries to middle Piru Creek would not be negatively impacted by the proposed project because the simulation of natural flows along middle Piru Creek would not result in a change to those connecting tributaries. In fact, natural flows would be positive in that increased flow in middle Piru Creek would aid outmigration, if that becomes possible at some future time, or if trout currently migrate to Lake Piru from tributaries of middle Piru Creek.

In addressing potential concerns regarding the delivery of State Water Project water, it is noted that this water would be delivered during the rainy season, outside the sensitive period for arroyo toads. This window of time for water deliveries was designed in close coordination with the USFWS. Furthermore, the USFWS recommends that water deliveries be made either in association with natural storm events or during a period when increased stream flows would mirror a natural event. In addition, by design the simulation of natural flows in middle Piru Creek would probably result in a decrease in non-native predators through increased winter storm flows and periodic disruption of creek flows during the dry summer.

Regarding concerns about the introduction of non-native fish into middle Piru Creek due to implementation of the proposed project, creel census surveys conducted between Frenchman's Flat and Pyramid Dam indicate that non-native fish, including large mouth bass, catfish, and bluegill, are already present in middle Piru Creek. In addition, reports from anglers interviewed during the creel

census surveys indicate that large mouth bass and other non-native game species can move upstream from Lake Piru during periods of high flow and are regularly observed above Lake Piru. Therefore, the presence of non-native fish in middle Piru Creek is an established fact and reflects the current “baseline” condition on the creek.

The CDWR has also indicated that although it is possible that non-native fish can be introduced during testing or opening of the radial gate, which does not contain a fish screen, daily water releases flow through a cone valve system, and fish are not be expected to survive the passage. The installation of a fish screen at Pyramid Dam would constitute a major project that would require a major drawdown of Pyramid Lake. This action would significantly impact recreation, disrupt scheduled water deliveries and power operations, impact biological resources in middle Piru Creek and Pyramid Lake, and require environmental review beyond the scope of this EIR. Moreover, installation of a fish screen would be ineffective at keeping small, juvenile bass and other non-native species out of middle Piru Creek. It should also be noted that Pyramid Lake is a well established warm water fishery that has been in place for over 20 years. Any proposal to eliminate bass and other game fish introduced through the California Aqueduct would constitute a separate project requiring its own environmental review and approval, as well as amendment of the license for FERC Project No. 2426, which designates Pyramid Lake as a self-propagating warm water fishery.

One component of the proposed project is the reduction of non-native species in middle Piru Creek. The simulation of natural flows would produce conditions that are not favorable to non-native species. Large winter storms would increase the potential to flush non-native fish downstream while sections of the creek may dry out during the late summer and fall months during periods of reduced rainfall. This would reduce populations of aquatic predators by desiccation and increased water temperatures. Although some non-native fishes would probably survive, the overall reduction in predator populations would probably provide benefits to native species on middle Piru Creek.

45. The only stream data available are the USGS data. As noted in the response to Comment 38 above, the terms of the CDWR’s FERC license require it to coordinate closely with USGS. Accordingly, the CDWR contract with the USGS to inspect and calibrate all gauges twice a year, to make maintenance recommendations to the CDWR, and to review its stream gauge data for accuracy. If the CDWR were to fail to implement the recommended maintenance or there were serious or on-going problems with the data submitted by the CDWR, the USGS would notify the FERC. Thus, there is an established mechanism for ensuring the accuracy of the data. Installation of additional, more precise, “real-time” gauges is not operationally feasible. Additionally, it is not clear what net benefit there would be from “real-time” recording of low flows.

In reference to Draft EIR Figures 3.2-1 through 3.2-6, the gauges used in the analysis are described in Section 3.2.2 of the Draft EIR. Plot flows of daily flows (in reference to Figure 3.2-6) are not considered practical due to the large number of days during the period indicated. The intent of the graph is to show how summer flows have been altered by Pyramid Dam. This is accomplished by the existing figure.

The information contained and format of Draft EIR Tables 3.2-1 and 3.2-4 is considered appropriate for the analysis. Changing this information to a graphic format would not alter the conclusions of the analysis and would not provide any net benefit to the content of the Draft EIR.

46. The purpose of the proposed project is to return the creek to its natural condition, to the extent feasible. Under the proposed project it is likely that some pools in the creek would dry up; however,

monitoring these conditions would not provide any net benefit as no action would be taken on monitoring observations. Additionally, CEQA does not require monitoring (mitigation) for project effects that are not considered significant; the potential drying up of pools would be a natural event and is not considered to be a significant impact.

For the purposes of the Draft EIR mean daily inflows and outflows were used because gauge data for shorter periods of time were not available. Since inflow and outflow data were both daily means, the analysis is considered valid for a description of baseline conditions and the assessment of impacts.

47. Existing sediment transport in the creek is a function of Pyramid Dam, which is considered part of the proposed project area's "existing conditions." The proposed project would not significantly change these existing conditions and mitigation monitoring is therefore not considered necessary. It is noted, however, that CDWR has considered options for restoring sediment transport conditions below the Dam. Identified options would require the transport of large volumes of sediment by truck to the upper-most reaches of middle Piru Creek, all of which were considered to be impractical and would create additional impacts to the area, such as those associated with traffic and transportation, noise, air quality, and biological resources (please see response to Comment 7, above).

48. FERC License 2426 requires that a year-round trout fishery be maintained between Pyramid Dam and Frenchman's Flat. The CDFG has maintained a put-and-take fishery at Frenchman's Flat for over 20 years by stocking 3,000 pounds of rainbow trout per year; only the uppermost section of middle Piru Creek, from the concrete weir upstream of Frenchman's Flat to the bridge immediately downstream of Pyramid Dam, is a designated catch and release area. The CDWR agrees that the introduction of hatchery raised fish can have an adverse impact on native species by competing for essential resources; however, passage by anadromous species from the ocean to middle Piru Creek was cut off almost two decades before Pyramid Dam was built. Moreover, the CDFG also stocks rainbow trout in Lake Piru. The CDWR has been advised by CDFG fisheries biologists that hatchery-raised fish would have interbred long ago with any steelhead trout trapped in middle Piru Creek by construction of Santa Felicia Dam. Thus, there seems to be substantial disagreement between subject matter experts on the genetic status of naturally reproducing trout in middle Piru Creek (please also see responses to Comments 22 and 40). Until this issue has been resolved, it seems premature to stock triploid fish especially since such a step would not undo whatever genetic introgression has already occurred. Notwithstanding the disagreement between subject matter experts, the CDWR intends to coordinate closely with affected agencies regarding this issue as needed in response to new information or changes in the regulatory setting.

If this Final EIR is certified and the proposed project approved pursuant to CEQA, the CDWR would submit a request to the FERC to replace the license requirement for maintenance of a year-round trout fishery between Pyramid Dam and Frenchman's Flat with a requirement for maintenance of a trout fishery as compatible with natural flows. To a certain extent, this is already the CDFG's practice in that rainbow trout are typically only planted from November through May; under baseline conditions, only the latter part of this period has had supplemented summer flows, which were primarily intended to sustain the naturally reproducing fish in the catch and release area upstream of Frenchman's Flat. In the event that access by anadromous fish to middle Piru Creek is restored at some future time, the proposed FERC license amendment stipulating that the trout fishery be compatible with natural flows would seem unlikely to cause any adverse effect on steelhead trout since this species evolved under such stream flow conditions.

49. Implementation of the proposed project would simulate natural flows along middle Piru Creek. The operations of Pyramid Dam would not alter the operations of Santa Felicia Dam or any other facility on the Santa Clara River watershed except when inflows into Lake Piru exceeded its storage capacity.

Regarding the timing of flows commensurate with the life histories of native species, the simulation of natural flows on middle Piru Creek would be consistent with the life history characteristics of native species and would provide conditions that are more natural than those that exist under the current flow regime. Stream flow released into the Santa Clara River by Piru Creek would closely match natural conditions should water be released from the Santa Felicia Dam by United. Additional winter releases from the Santa Felicia Dam should benefit any remaining steelhead trout attempting to reach spawning areas downstream of Santa Felicia Dam. However, it should be noted that under natural flow simulation, the operations of Pyramid Dam would not be governed by flow downstream, unless there are issues of safety. Therefore, the CDWR does not believe the operations of United and CDWR are interdependent.

50. The CDWR has indicated that implementation of the proposed project would result in beneficial impacts to native species on middle Piru Creek and does not believe that additional studies or monitoring plans are warranted. The Mitigation Monitoring Plan in Appendix B addresses potentially adverse effects of the proposed project, how these impacts could be mitigated to a less than significant level, and how mitigation would be implemented and monitored.

**MEMORANDUM TO JOHN KEMP,
CALIFORNIA DEPARTMENT OF FISH & GAME
LETTER DATED JANUARY 20, 2005, AND
TRANSCRIPT OF PUBLIC SCOPING MEETING
DECEMBER 16, 2004**

M e m o r a n d u m

Date : December 14, 2004

To : John Kemp
Southern Field DivisionFrom : Eva Begley, Chief
License and Regulatory Compliance Section
Department of Water Resources

Subject: Simulation of Natural Flows in Middle Piru Creek

Based on a request from the Department of Health Services (attached), this is to advise you that DWR is proposing to adopt revised operations guidelines for stream releases from Pyramid Dam into Piru Creek. Under the new guidelines, stream releases would be matched to natural inflow into Pyramid Lake as closely as operationally feasible and consistent with safety requirements. The intent of the proposed change is to avoid incidental take of the federally endangered arroyo toad attributable to State Water Project operations at Pyramid Dam. The current operations guidelines expire March 15, 2005, and the proposed guidelines are currently undergoing public review pursuant to the California Environmental Quality Act (CEQA). Upon completion of the CEQA process, we anticipate submitting a request for license amendment to the Federal Energy Regulatory Commission (FERC) to reconcile FERC license requirements with endangered species protection requirements.

We do not expect the proposed operations guidelines to have any effects on raw surface water quality of Pyramid Lake or water treatment plant operations at Vista del Lago, but if you have any questions or concerns about the proposed project, please do not hesitate to contact me at (916) 653-5951 or ebegley@water.ca.gov.

Attachment

cc: Mr. Joseph E. Crisologo, P.E., R.E.A.
Department of Health Services
Southern California Drinking Water Field Operations Branch
1449 West Temple Street, Room 202
Los Angeles, California 90026

Ms. Sue Walker ✓
Aspen Environmental Group
485 North La Patera Lane
Goleta, California 93117-1509

**DEPARTMENT OF FISH AND GAME**

<http://www.dfg.ca.gov>
4949 Viewridge Avenue
San Diego, CA 92123
(858) 467-4201



January 20, 2005

Dr. Eva Begley
California Department of Water Resources
1416 Ninth Street, Room 620
Sacramento, CA 95814

**Draft Environmental Impact Report
Simulation of Natural Flows in Middle Piru Creek
SCH # 2004051123, Los Angeles County**

Dear Dr. Begley:

In a letter dated December 29, 2004, the Department of Fish and Game ("DFG") commented on the Department of Water Resources ("DWR") proposed Simulation of Natural Flows in Middle Piru Creek Project ("project") described in the above-referenced draft Environmental Impact Report ("DEIR"). In that letter, the Department indicated that DWR might need to notify DFG, and perhaps obtain a Lake or Streambed Alteration Agreement ("agreement") in accordance with Fish and Game Code section 1602 before beginning the project.

After further evaluation of the project, DFG has concluded that notification and an agreement are not required. However, DFG believes that DWR should follow the biological recommendations in the above-referenced comment letter to protect southwestern pond turtle, arroyo toad, and other aquatic species populations below Pyramid Dam. Specifically, DWR should determine the population of southwestern pond turtles and arroyo toads below Pyramid Dam before project implementation, monitor those populations for changes over the long term, and implement measures to protect those populations if monitoring results show that the project is adversely affecting those populations.

If you have any questions regarding this matter, please contact Mr. Scott Harris, Associate Wildlife Biologist, at (626) 797-3170.

Sincerely,

A handwritten signature in cursive script that reads "C. F. Raysbrook".

C. F. Raysbrook
Regional Manager

cc: Department of Fish and Game:
Scott P. Harris, Pasadena
CFR-Chron; HCP-Chron

SP:sp/si
Corresp_HQ\BegleyE_01-05.doc

PUBLIC SCOPING MEETING FOR THE SIMULATION
OF NATURAL FLOWS IN MIDDLE PIRU CREEK
ENVIRONMENTAL IMPACT REPORT

TRANSCRIPT OF PROCEEDINGS

TAKEN ON

THURSDAY, DECEMBER 16, 2004

6:06 P.M.

Reported by:

Daryl Baucum, RPR, CRR, CBC, CSR No. 10356

<p>1 SANTA CLARITA, CALIFORNIA; THURSDAY, DECEMBER 16, 2004 2 6:06 P.M. 3 4 MS. WALKER: If I could have your attention, we 5 would like to call the meeting to order. We are a very 6 small group, but I would like to thank all of you for 7 coming tonight. 8 My name is Sue Walker. I work with Aspen 9 Environmental Group, which is the environmental 10 consulting firm with a contract to DWR to prepare the 11 EIR for this project. 12 We are here primarily for two reasons tonight. 13 One is to go over the conclusions and the salient issues 14 that are identified in the Draft Environmental Impact 15 Report. 16 And the second reason we're here is to solicit 17 agency and public comments on the DEIR, and any 18 questions, comments or concerns you may have. 19 There are a few things I would like to mention 20 before we start the meeting. First of all, we have with 21 us George Rurour. George is a Spanish interpreter. I 22 don't think anybody here needs this this evening, but if 23 you do, George is available for you. And if actually 24 more people from the public start coming in, we may ask 25 again just to make sure they know that he is here.</p> <p style="text-align: right;">2</p>	<p>1 appreciate it. 2 And, lastly, we have a court reporter with us 3 this evening. And we ask that when you do speak -- I am 4 more guilty than anybody -- that you try to speak slowly 5 and clearly and begin by identifying yourself. If you 6 are from the public, let us know the area of your 7 residency, and if you are with an agency, let us know 8 your agency location. 9 There are a few other members here I would like 10 to introduce to you. First, is Dan Peterson. He is the 11 Chief of the Environmental Assessment Branch for the 12 Department of Water and Resources. And the second is 13 Chris Huntley, who is a senior biologist for the Aspen 14 Environmental Group. He has been involved with the 15 surveys we have been doing. He is also a Senior Analyst 16 for the Environment Impact Report. 17 Unfortunately, Eva Begley, the project manager 18 from DWR, is very ill and unable to attend tonight. 19 To review the items on the agenda with you very 20 quickly, we have our welcome and introductions, which 21 are almost over. Then Dan is going to give you a brief 22 project description; Chris will give us an overview of 23 the Federal Endangered Species Act and the project's 24 need for protection of wildlife, particularly the Arroyo 25 toad. He then will give you a brief summary or overview</p> <p style="text-align: right;">4</p>
<p>1 We also have with us Carolina Morgan from 2 Aspen. If you came in through the lobby, there is 3 actually comment cards and there's a comment card box. 4 And if you want to make comments or have questions 5 during the comment period, we ask that you fill out one 6 of the cards and put it in the box, but at this point 7 the box will go away and it will be in Carolina's 8 possession. And, please, just give your card to 9 Carolina and she will make sure it gets into the box for 10 you. 11 Also, in the front lobby you will find this 12 evening's agenda, and on the back of it the locations 13 for the public, in particular where the Draft 14 Environmental Impact Report is available. There are 15 also comment cards for you. There are also copies of 16 what we refer to as the Notice of Availability, which is 17 the formal documentation stays that the draft EIR is out 18 for public review. 19 The location of the restrooms are out the front 20 door. And the men's room is to the left; the ladies' 21 room to the right. We just ask that you keep your 22 amblings to that hall and to the restrooms and this room 23 and not wander about the building, because we don't want 24 to bring up any security issues. If you could, please, 25 turn off your cell phones and pagers, we would</p> <p style="text-align: right;">3</p>	<p>1 of the project's environmental review process. 2 We will then give you a brief summary of the 3 scope and major conclusions of the Environmental Impact 4 Report. And then we will open up the meeting for the 5 public comments and agency comments, as well, and then 6 we will adjourn for the evening. 7 With that in tow, I will hand it over to Dan to 8 give you a brief project description. 9 MR. PETERSON: Thank you, Sue. 10 As Sue said, my name is Dan Peterson with the 11 Department of Water and Resources. And I will try to 12 keep the project description brief. 13 You have the map up. Good. 14 Basically, what this involves is a reoperation 15 of Pyramid Reservoir on the state water project. And 16 Pyramid Reservoir is right up there at the top. And 17 Pyramid Reservoir is in many ways just kind of a wide 18 spot in the state water project. 19 Water comes from over the Tehachapi Mountains 20 and into Pyramid Lake. Water is released into Castaic 21 Reservoir from Pyramid. And there's power generation 22 between the two reservoirs. So Pyramid Lake primarily 23 regulates the head of water for release into Castaic 24 Lake and on into -- or through the power plant and into 25 Castaic Lake.</p> <p style="text-align: right;">5</p>

1 We have since our reservoir began have
2 basically been operating Pyramid Lake in two modes, but
3 they both were designed to modify the natural stream
4 flow release of Pyramid Lake to augment the summer flows
5 and to diminish the winter flows, or not so much to
6 diminish them, but by augmenting it the way we did, it
7 tended to enhance the summer flows. So, basically, we
8 are proposing to change that operation.
9 And the operation we are moving to is a
10 simulated natural flow. So, basically, we're going to
11 do the best we can to water coming in the reservoir will
12 be the water that is released down Piru Creek.
13 So as you all know, with this climate such as
14 it is, it is going to have a heavier flow in the summer
15 being released down the reservoir and a lower flow in
16 the summertime. So it will change from what is right
17 now a flow regime of typically, fairly steady-state flow
18 of about 25 CFS during the summer that's being released
19 down Piru Creek from Pyramid Dam to whatever the natural
20 inflow is.
21 And the natural inflow varies. It's typically
22 a much lower flow. Typically, the natural flow would be
23 in the range of 5 to 10 CFS, maybe 5 to 15 CFS, but it
24 can be very boisterous. We will be releasing what comes
25 into the reservoir.

6

1 we will cut back and we will conserve those flows until
2 it's safe to release them.
3 So the high flows, it could be modified a
4 little bit based on safety considerations, property
5 issues, or anything else. So it will tend to be
6 water in, water out, but there will be some deviation
7 from that on an as-needed basis.
8 The other releases will be if we have to do any
9 testing of equipment, we may have to release water up
10 to, I think -- 50 CFS we can release at a time to test
11 equipment or test values, instruments, meters, whatever.
12 We will tend to do that during the periods that do not
13 impact the arroyo toads to the extent we can. If that
14 can't be done, then we have some criteria they we will
15 operate by.
16 And the third thing is within this mode of
17 operation, is we will continue to provide State Water
18 Project entitlement water to United Water Conservation
19 District in the amount of 3150 acre feet of water per
20 year. And that's essentially continuing what we have
21 been doing. And that water would typically be provided
22 to them during the months of November through February,
23 again, to avoid any impacts to the Arroyo toad.
24 So in a nutshell, that's what we're doing.
25 This is all about reoperating Pyramid Reservoir.

8

1 The reason for this is pretty simple. We have
2 been advised by the U.S. Fish and Wildlife Service that
3 our prior operation of Pyramid Reservoir was resulting
4 in the take of the endangered Arroyo toad, and take of a
5 federally listed endangered species is illegal.
6 So as an option -- the best option to remedy
7 that is to just revert back to this water-in/water-out
8 scenario is essentially what we're doing.
9 So the Fish and Wildlife Service has indicated
10 to us that if we make -- if we alter, change our
11 operation to that scenario, to that release mechanism,
12 that it will eliminate the incidental take of arroyo
13 toad. And as such, we will be back in compliance with
14 the Federal Endangered Species Act, which is something
15 we greatly want to do since it could significantly
16 impact our ability to operate the state water project.
17 What water-in/water-out typically means is that
18 we will estimate the flow -- measure and estimate the
19 flow in the Pyramid Reservoir, and we will release that
20 flow approximately 24 hours later. So the flows will be
21 staggered by about one day.
22 Flows exceeding 18,000 CFS or flows that are
23 deemed by emergency agencies, Forest Service, Highway
24 Patrol, whomever -- that any flows that are likely to
25 cause flooding, property damage, an emergency condition,

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1 Any questions? Anything that I am missing?
2 MS. WALKER: Next, Chris Huntley is going to
3 talk to you a little bit about the Federal Endangered
4 Species Act and the need for Projection of the Arroyo
5 Toad.
6 MR. HUNTLEY: Hello. Thank you all for coming.
7 We are going to do a little presentation on the
8 Arroyo toad. Most of the information was generously
9 provided by Cree Clayton of the United Fish and Wildlife
10 Service.
11 The Endangered Species Act in a nutshell has
12 been designed to provide for the protection of federally
13 endangered plants and animal species and their habitat.
14 This act is administered by the U.S. Fish and Wildlife
15 Service. And the whole goal of this project is to
16 ensure compliance with that act.
17 Now, what it really comes down to on this is
18 the Arroyo toad there. It's a federally endangered
19 species; it's known to occur on Piru Creek. And we are
20 going to do a quick talk on the benefits of simulated
21 natural flows.
22 So talking a bit about the toad, historically,
23 this creature was a far-ranging animal, and it went from
24 central California all the way down to northern Baja,
25 California.

9

1 Currently, because of damage to its habitat,
2 flow attenuation, various projects, it's limited to
3 about 23 drainages around California. In Ventura and
4 L.A. County, it's down to about six different locations.
5 It's an extreme habitat specialist. And what
6 that means is this animal can only live in a narrow
7 variety of circumstances. They prefer shallow sand and
8 gravel dominated channels on what is called a
9 low-gradient strain. What that basically means is they
10 want slow-moving, shallow water that they can provide
11 for breeding and rearing.
12 They typically breed from March to July in
13 southern regions. And even up here if the weather is
14 right, they can breed as early as February or start
15 breeding early in February. They want shallow pools
16 with slow-moving water. They like that sandy substrate,
17 and they want areas that have very sparse vegetation.
18 They like a little bit of vegetation, but they don't
19 want huge communities of plants along the banks of the
20 stream. They feed primarily on insects, and the adults
21 prefer a couple of different species of ants.
22 They're susceptible to predation by a number of
23 species, a lot of them native. In fact, some sensitive
24 species like the two-stripe garter snake are known to
25 feed on Arroyo toads, but they are really susceptible to

10

1 exotic species, primarily bullfrogs, crayfish and
2 large-mouth bass.
3 Now, the Endangered Special Act protects this
4 species. This species was listed in 1994. And,
5 basically, what the act says is that all federal
6 agencies are almost mandated to provide programs for the
7 conservation of this species, and that any action,
8 individual or done by an agency, that could threaten a
9 species requires consultation. And if that is going to
10 occur, they typically have to get an incidental take
11 permit to do any kind of action that could affect this
12 species.
13 This is actually an Arroyo toad that was
14 crushed by a vehicle. You can see it's a bit flattened.
15 And that's a common way that these species are killed in
16 these areas. They come out on the roads and are crushed
17 by vehicles.
18 On Piru Creek, Arroyo toads are located in a
19 couple of places. One you can't really see is up here
20 above the dam in an area called Hard Luck Campground. I
21 believe that campground is now closed.
22 GINO YOUNG: Seasonally.
23 MR. HUNTLEY: I am not sure. I thought it may
24 have been closed.
25 GINO YOUNG: It's seasonal.

11

1 MR. HUNTLEY: They also occur below Pyramid Dam
2 from an area just below Frenchman's Flat all the way
3 down to an area just above lake Piru.
4 Now, the area between the dam and Frenchman's
5 Flat, the species are no longer there. They believe
6 it's been exterminated. There have been numerous
7 surveys in the area that do not indicate the presence of
8 this species. The area is infested with exotic
9 predators that feed on this animal, and the habitat has
10 been degraded to the point where it probably will not
11 support animals in that location.
12 Now, existing conditions on Piru Creek is one
13 of the reasons the Arroyo toad is having a problem, and
14 it's one of the reasons DWR is trying to simulate
15 natural flows. This is a photo taken of existing -- or
16 of past Arroyo toad breeding habitat just above --
17 actually, this is just below Blue Point Campground.
18 Now, the current flow regime which is
19 attenuated winter storms and augmented summer flow
20 allows for the establishment of native riparian
21 vegetation along the bed and banks. And these areas
22 historically contain very little vegetation. Now, they
23 provide dense cattails, and alder thickets have grown in
24 these side channels.
25 Now, this is used to support breeding and

12

1 rearing habitat for this animal, but because of the
2 increased hydrology and summer water, this has been
3 allowed to flourish. And this vegetation would not
4 historically have occurred in that location in the
5 creek. One of the things that is important about this
6 is this habitat, though it looks beautiful, is not
7 natural for this system.
8 What this summer water does and what this
9 vegetation does is it eliminates habitat that that
10 animal would use. It also leads to channelization of
11 the creek. What that basically means is as the creek
12 gets narrow, it gets deeper, it increases the water
13 velocity, which also robs the substrate of sediment and
14 soils that these animals would use for rearing habitat
15 at later stages. And what you end up getting over a
16 period of time is a boulder-dominated creek bed that
17 doesn't provide habitat for many native species.
18 Also, this water and this vegetation provides a
19 wonderful habitat for exotic predators, primarily
20 bullfrogs. And in certain stretches, although not in
21 large number, there are some bass in here that do feed
22 on these species.
23 Now, the benefits of simulated natural flow on
24 Piru Creek are threefold, right off the front.
25 Restoring natural flows will provide for the

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1 establishment of natural populations of riparian
2 vegetation on this creek. We expect some change in
3 habitat structure at certain places because of increased
4 scour and summer desiccation, but we are still going to
5 have riparian vegetation there but it's going to be what
6 used to be there.
7 We are also going to redistribute the sediments
8 by allowing the strong winter storms to come through and
9 scour out vegetation. It's going to pick up the
10 sediments along the bed and banks and redistribute it to
11 different locations around the creek. By restoring the
12 natural hydrology, you will get these back waters, these
13 eddies, these sand bars and terraces. These are habitat
14 these species require.
15 Interestingly enough, this redistribution of
16 sediments and restoring natural populations of
17 vegetation is also likely to help other native species
18 that are living in this area. But the key thing here is
19 the decrease in populations of exotic predators.
20 Bullfrogs have been demonstrated to virtually
21 eliminate many native species from the creek once they
22 get in there. They are voracious predators. And once
23 they are in, they will clean out everything. They will
24 eat anything they can get in their mouth.
25 Some of the exotic predators that we are

1 do to eliminate bullfrog population, it's going to
2 disrupt the reproductive cycle of these animals.
3 Bullfrogs are native species to the United States but
4 they're native to the east. They don't belong in this
5 area. They were imported to California for food in the
6 1800's after they eliminated much of the red-legged frog
7 populations in the Central Valley.
8 Bullfrog tadpoles take more than a year to
9 develop, which means they typically will spend up to two
10 years in a creek as a tadpole. They don't
11 metamorphosize into small juvenile toads until after two
12 years.
13 Now, native amphibians, particularly Arroyo
14 toads, they can metamorphose in one season. So they are
15 in. As a stream starts to dry up, they're juvenile
16 toads, and they will move into habitat that wouldn't
17 otherwise probably support them.
18 In brief summary, natural flows will benefit
19 the toads in a couple ways. We talked about them. It's
20 going to reduce vegetative overgrowth, which means it
21 will help eliminate these dense populations of riparian
22 habitat that's encroached on the stream bed. It's going
23 to allow natural floods to redistribute sediments. We
24 are not going to attenuate winter storms to the degree
25 we have.

1 dealing with on Piru Creek are bullfrogs, the
2 large-mouth bass, crayfish -- and we threw it in
3 there -- invasive plants. That can also be native and
4 nonnative plants. We say "invasive" because they are
5 acting in a way they shouldn't normally do or they don't
6 normally do in this habitat.
7 This is a photograph of an Arroyo toad antenna
8 which is connected to the toad inside the belly of a
9 bullfrog. This was eaten by this animal. And,
10 apparently, the researchers tracked it and then found
11 the animal that had been eaten by this toad.
12 These things will eat anything. In fact, Fish
13 and Game -- some studies that I have been working with
14 them on, they found that bullfrogs eat garter snakes,
15 just anything. And in fact, once they eliminate the
16 native species, they start actually in on the other
17 exotics. So they will eat the crayfish if they can get
18 their paws around it.
19 Now, natural flows will reduce these aquatic
20 predators because they change conditions back to a
21 normal state that is not favorable to these animals.
22 These guys like deep water; they want year-round flow;
23 and they want dense vegetation which they can shelter
24 in.
25 One of the other things that natural flows will

1 So this vegetation will, hopefully, be ripped
2 clean. It may not happen for three or four or five
3 years, depending on the storm circles, but ultimately it
4 will occur. And the key thing is it's going to lead to
5 a reduction in nonnative predators. And the key animal
6 we are trying to eliminate in this cycle is the
7 bullfrog. And by having natural stream flows or
8 simulated natural stream flows, there's a really good
9 chance this animal will recover in this stream.
10 And I think that is it. Thank you.
11 MS. WALKER: Just briefly for you, I would like
12 to go over very quickly the environmental review process
13 for the Environmental Impact Report.
14 We published a notice of preparation, which is
15 the formal notification to public agencies that DWR was
16 preparing -- getting ready to prepare an Environmental
17 Impact Report in May of this year.
18 Following the NOP, we had a public scoping
19 meeting here almost exactly seven months ago, at which
20 point we described the proposed project and what it
21 would entail. We also talked a little bit about what we
22 thought were the most of salient issues of the DEIR, and
23 we asked for public comment and agency comments on what
24 they thought should be within the scope of the EIR.
25 The most salient comments we received at the

1 time, either verbally at the meeting or in letters, were
2 water resources, biological resources and potential
3 impacts on the trout fisheries.
4 The Draft Environmental Impact Report was
5 adopted with the State Clearing House on November 8, and
6 it was also distributed to about 120 parties, mostly
7 agencies, but also public parties, as well. The DEIR
8 public agency review period is 60 days for this project,
9 which is a little bit unusual. It's normally only 30
10 days, but it will run through January 7 of this year.
11 In fact, we're having a public meeting this evening
12 where you can give verbal comments.
13 Once the 60-day review period ends, we will
14 publish the final EIR, which we currently hope will be
15 adopted with the State Clearing House on January 31.
16 The final EIR will not be as entire as this
17 DEIR. It will have all of the comments received on the
18 DEIR; it will have responses to all the comments
19 received; and it will have any text changes that may
20 have occurred as a function of the comments that we
21 received.
22 There will be a brief, ten-day period for
23 agency and public review of the final DEIR. DWR will
24 make a decision on the project and either choose to
25 certify or not certify the EIR on February 10. And it

18

1 will actually be adopted with the State Clearing House
2 on February 11. There will then be a 30-day statutory
3 statute of limitations for the project and
4 implementation, I believe, in February or March until
5 March 13, when the project will actually be implemented
6 if approved.
7 Again, as on the back page, the DEIR and final
8 EIR will be available for public review.
9 And Eva Begley, who is unfortunately not here
10 tonight, is project manager for EIR. And you can fax or
11 write her comments to this address on the back of the
12 comment card. Her address is there, as well. So if
13 after this meeting you feel that you would like to put
14 down comments, all you have to do is fill out the card,
15 put a stamp on it, and put it in the mail, and we will
16 receive those comments. We only ask that you try to get
17 them in to us by the end of day January 8, because that
18 is the end of the comment period.
19 Then there is a function of this project that
20 has to do with approval by the Federal Energy Regulatory
21 Commission. And Dan is going to talk to you a little
22 bit about how that process works.
23 MR. PETERSON: FERC regulates hydro power
24 projects in the United States. And as such, they
25 regulate our operation of Pyramid Reservoir because

19

1 there is a -- actually, it's a bit complicated -- but
2 the power plant between Pyramid and Castaic is actually
3 operated by the Los Angeles Department of Water and
4 Power. And we have an agreement with them where we're
5 in a power sharing arrangement with that, but we are the
6 owners of the FERC license. And that FERC license
7 includes Pyramid Reservoir, and it includes our
8 operation of releases from Pyramid Reservoir.
9 Now, Article 52 of our FERC license requires
10 that we maintain a summer augmented release from the
11 reservoir, as we discussed earlier. And the purpose of
12 that is to maintain a trout fishery. That was required
13 in our FERC license. And as such, we have been
14 basically operating to meet that up until now. And as
15 Chris and I discussed earlier, the Endangered Special
16 Act comes along and says, wait a minute, you got to
17 rethink this.
18 So after we're through with this process, the
19 CEQA process, assuming that the department adopts the
20 final EIR and moves ahead with the proposed action, is
21 we will have to then initiate a FERC action in which we
22 will request of FERC to amend our license. And we will
23 ask them specifically to amend Article 52 of our license
24 to replace the current flow releases in that with this
25 simulated release schedule. And in that, we will

20

1 actually give more or less a schedule that pretty much
2 is the same thing that is in the EIR to FERC as to how
3 we are going to operate.
4 FERC will go through a process similar to this
5 on their own. And FERC doesn't do things in -- they
6 don't do things in parallel with you; they do things
7 sequentially. So we tried to get FERC involved in this
8 so that we could run the parallel path, and they won't
9 do that.
10 So essentially, when we're done, we will make a
11 request of FERC, and then FERC will go through an
12 environmental review. They will allow public comment on
13 basically the same thing we are talking about here, and
14 then they will take action on it.
15 So that will be sometime in the future,
16 probably either next year or maybe the year after that
17 before there would be FERC action.
18 Now, what we anticipate doing is since the Fish
19 and Wildlife Service is pretty anxious for us to stop
20 the incidental take of the Arroyo toads, we will
21 probably notify FERC and request that we be allowed to
22 proceed on this on an interim basis. And so we would
23 request that they grant approval for us to begin this
24 new flow release or simulated natural flow beginning in
25 mid-March of next year.

21

1 So we will notify FERC. When we're finished
2 with our process, they will undergo a similar process --
3 not quite the same, but similar. And at some point in
4 time in the future -- probably at least a year from
5 now -- would issue an opinion or issue a new order for
6 us in which they would order us to do what we ask them
7 to do.
8 So we would have to request an amendment to our
9 license, and that process would be on the tail end of
10 this. And other than that, that's about it. That's
11 what we know at this point in time.
12 MS. WALKER: Now, we're going to talk a little
13 bit about the EIR and its scope.
14 Before we do start, I just wanted to review
15 with you -- I guess start with the focus of the EIR,
16 which was on water resources, biological resources,
17 cultural and paleontological resources and recreation.
18 And this is what we had identified at the time we
19 published the NLP and have maintained it ever since.
20 CEQA requires that you look at a whole suite of
21 environmental resource or issue areas when you do an
22 environmental review document. These are the other
23 resources that we looked at in the environmental impact
24 report.
25 We base them on criteria set forth by CEQA.

22

1 the dam.
2 We looked at five different alternatives, and
3 they included the no-project alternative, which is
4 effectively maintaining operations of the dam as they
5 occur right now.
6 The second alternative, which was referred to
7 as alternative two in the DEIR, is reversion to the
8 original FERC license, 2426. And basically, what that
9 one would entail is that water-based flows would be kept
10 at 5 CFS plus storm releases between November 16 and
11 April 30. And in between May 1 and November 15, there's
12 a base steady stream of about 10 CFS. And then there's
13 slight increases or decreases in that basic stream
14 release based on ambient air temperatures.
15 The third one, alternative three, is steady,
16 low-summer flows. This is effectively the same as the
17 no project alternative, except between May 1 and
18 November 17, a steady flow of 5 or possibly 10 CFS would
19 be maintained in the creek.
20 The fourth is alternating summer flows. And
21 this is a little bit more complicated, which is actually
22 two scenarios wrapped together. And that's that the
23 no project condition, existing conditions, would be
24 maintained for anywhere from two to four years, followed
25 by one to two years of simulating the natural flow of

24

1 And impacts associated with all of these resource were
2 either found to be no impact or less than significant
3 impact.
4 CEQA also requires that any EIR look at more,
5 if you will, big-picture issues. And they would include
6 growth-inducing impacts, significant irreversible
7 environmental changes, cumulative impacts, which speaks
8 to the impacts of this proposed project, in addition to
9 impacts that occur with other projects that are proposed
10 in the area. And then what we do is significant
11 unavoidable environmental impacts. Sometimes, we also
12 refer to this as an impact that you cannot mitigate to a
13 level of less significant impact.
14 CEQA also requires that when you write an
15 environmental impact report, you look at alternatives.
16 The exact wording for CEQA is "a range of usable
17 alternatives." The alternatives have to meet basic
18 objectives of the project.
19 In this particular instance, we're looking at
20 avoiding the taking of the Arroyo toad in middle Piru
21 Creek. So as opposed to a more straightforward
22 development project, we couldn't look at other
23 locations. We had to look at middle Piru Creek. And
24 that pretty much limited our alternatives and
25 evaluations to looking at different ways of operating

23

1 the creek. In total, we would rotate between these two
2 things for a period of about five years.
3 The fifth alternative we looked at was no state
4 water delivered to Lake Piru. As Dan referred to
5 earlier, there is 3150 acre feet per year allowable
6 delivery into Lake Piru and Lake Piru Creek. And it
7 typically happens in November to the end of February.
8 I'm going to talk very briefly about the most
9 salient points for water resources, biological
10 resources, cultural resources and recreation.
11 Before I begin, I think it would be good to
12 maybe review with you how we categorize our impacts.
13 They're defined by CEQA, which is the driver for the
14 EIR.
15 Basically, our impacts can be no impact, a less
16 than significant impact, a significant impact that can
17 be mitigated to less than significant, a significant
18 impact that cannot be mitigated to less than
19 significant -- and this is what we call the unavoidable
20 impact -- and we can also have beneficial impacts.
21 And how we categorize these impacts and apply
22 them to the project is based on very specific CEQA
23 protocol and guidelines.
24 For water resources, eight impact issue areas
25 were addressed. Very briefly, those eight categories

25

1 were violation of water quality standards for waste
2 discharge requirements, depletion of ground water
3 supplies or interference with ground water recharge,
4 alteration of existing drainage patterns that cause
5 erosion, creation of off-site saltation, increased
6 surface water runoff which could cause flooding on or
7 off site, increased in surface runoff water which can
8 exceed the capacity of existing or planned storm water
9 drainage systems, additional sources of polluted runoff
10 or other degradation of water quality, and eight,
11 exposure of people or structures of risk due to
12 flooding.

13 Out of those impact issue areas, two were
14 identified as having potentially significant impacts.

15 The first was for alteration of existing drainage
16 patterns that would cause erosion.

17 The winter releases that would occur into the
18 Middle Piru Creek will increase erosion in the creek.
19 There will be more water going through the creek more
20 quickly. And particularly after large storm events, you
21 could see very large volumes of water.

22 This has the potential to threaten via erosion
23 the infrastructure within Middle Piru Creek,
24 particularly Old Highway 99 and Old Highway 99 bridges.
25 There are also fiber optic cables in there.

26

1 deter the public from going into the creek under flood
2 conditions.

3 For biological resources, there were four
4 impact issue areas addressed. Among them were the loss
5 or damage of nonnative plant species and plant and
6 wildlife species, the loss or damage of sensitive
7 plants, the loss or damage of sensitive natural
8 biological communities, and the loss or damage of
9 sensitive fauna or wildlife.

10 In all four instances, the EIR concludes there
11 would be no significant impacts that would occur that
12 would require mitigation. And in several instances,
13 additional impacts were identified, particularly as they
14 related to the Arroyo toad, California red-legged frog
15 and two-stripe garter snake.

16 The culture and paleontological resources, we
17 had two impact issue areas identified. And one is
18 potential effects and the prehistoric and historic
19 resources, and the other is on paleontological or fossil
20 resources.

21 Basically, these impacts boiled down to the
22 increase in – the increase in the rate of erosion along
23 the creek. And therefore, you have an increased degree
24 of exposure of cultural resources or paleontological
25 resources that may occur.

28

1 We identified what we referred to in the EIR as
2 mitigation H3, which is to conduct an engineering
3 analysis to establish how to study erosion that may be
4 caused by the project and how to monitor the
5 infrastructure so that no significant erosion, or
6 erosion with damage, happens to that infrastructure.

7 The second impact that was identified as being
8 potentially significant was exposure to the people or
9 structures due to increased flooding risks. Basically,
10 under the proposed project, what would potentially be
11 happening, given any given year's storm events, is that
12 we would be increasing the number of days that the creek
13 could have flows of 450 CFS from four days per year to
14 eight days to year.

15 And in doing that we increased the risk to
16 people trying to cross the creek. And that stands not
17 only for people trying to cross the creek, but also any
18 vehicles trying to cross the creek. And that is a
19 threshold that is established as triggering potentially
20 significant impact.

21 The DEIR has mitigation measure H8 which is for
22 DWR to develop a flood warning system in consultation
23 with the U.S. Fish and Wildlife Service and to post
24 signage for the public around the Piru Creek, I think
25 particularly in the area of Fisherman Flat, to try to

27

1 However, these impacts are found to be less
2 than significant for two reasons. Primarily, the first
3 is that we are returning the creek to its natural
4 hydrology. And therefore, that exposure would be as it
5 would occur naturally. Nothing unusual would be
6 happening to these resources as a function of the
7 project.

8 And the second is that that exposure rate
9 wouldn't have anything to do with any direct human
10 contact or human-induced disturbance. And therefore, it
11 was found to be less than significant.

12 For recreation, four impact issue areas, again,
13 were identified. And they include altered use of Middle
14 Piru Creek recreational facilities leading to its
15 physical deterioration; altered use of other
16 recreational facilities leading to their physical
17 deterioration – that's because of users from Middle
18 Piru Creek that may relocate to other recreational
19 areas – third is potential impacts, altered
20 opportunities for anglers because of the trout fishery;
21 and the fourth is on potentially altered opportunities
22 for rafters and kayakers.

23 Out of all of these impacts, the key impact
24 issue area for this was altered opportunities for the
25 anglers. In its analysis, a few things were noted in

29

1 the EIR for this. The first is that there would
2 definitely be an impact on the trout during the summer.
3 There would typically be very little flow in the creek
4 during the summer months, if any at all, and that would
5 jeopardize the trout population.
6 The creek is also stocked by California
7 Department of Fish and Game. It's part of FERC
8 licensing for DWR. Stock is only – the creek is only
9 stocked between November and May, and the peak angling
10 happens only between January and May. Very little is
11 observed between the months of July and September.
12 So my idea for mitigating potential impact on
13 anglers is to increase the number of trout stocked
14 during the winter months, which is their preferred time
15 to be in the creek, anyway. The FERC license currently
16 allows up to 4000 pounds of trout to be stocked in the
17 creek. But Fish and Game currently is only stocking
18 3000 pounds. So the idea is to add an additional
19 thousand pounds of trout at Frenchman's Flat and see if
20 that mitigates that impact.
21 The last thing that CEQA requires is that the
22 EIR provide what we refer to as the environmental
23 preferred alternative. And there are two real criteria
24 that need to be considered when we make this evaluation.
25 The first is that you need to consider the overall

1 questions at this point.
2 Yes.
3 REX PRAY: First, if you would speak up, it
4 would help for the more aged people to hear you.
5 We are co-owners of a piece of property at the
6 lower end of the area that is not going to be impacted.
7 I have been hiking up this stream for 25 years, been
8 fishing it for 25 years. Grant you, I am not up there
9 365 days a year, but 18,000 cubic feet of water is going
10 to wipe out big sections of our property, wash out roads
11 we have put in on property that we own. And it's going
12 to wipe out the fishing.
13 And I don't know who did the survey. I don't
14 go to Frenchman's Flat anymore. I am afraid to go to
15 Frenchman's Flat anymore. It is unsafe. Cars are
16 vandalized, cars are shot at.
17 There's a number of us from Ventura County who
18 fish Piru Creek all year long. In the middle of the
19 summer, we're having a ball catching fish.
20 I have heard nothing about eradicating the
21 bullfrog, of which in 25 years, I have seen them at
22 numerous lakes in Ventura County. I have never seen nor
23 heard a bullfrog on Piru Creek.
24 Unfortunately, did not have a copy of the EIR.
25 None was sent to the property owners that I am aware of.

1 project need and objectives, what are we trying to
2 achieve here and how reasonably and feasibly can it
3 done. The second thing you need to do is weigh the
4 advantages and all the disadvantages and all the various
5 alternatives as they apply to project purposes, as well.
6 The comparative analysis for the DEIR is found
7 in Chapter 6, and there is a summary of each in there.
8 Out of all the alternatives, the proposed
9 project, and in State Water Project Table A, water
10 deliveries to Piru Creek alternatives, were considered
11 to be two of the top contenders for the environmentally
12 preferred alternative.
13 These two alternatives had the greatest number
14 of advantages, ten in total, and have the fewest number
15 of disadvantages, which were only four in total.
16 The environmentally preferred alternative for
17 the EIR was chosen to be the proposed project because it
18 does have the greatest number of advantages, and also
19 achieved the objectives of the project, which is in part
20 to deliver state water deliveries to Lake Piru.
21 With that in tow, we would like to open it up
22 for a small group here. And I know a lot of us are from
23 the agencies. We would like to make this as interactive
24 as we possibly can.
25 I guess I will just open it up for comments and

1 MS. WALKER: Actually, copies were sent to all
2 property owners. We went through the Ventura County
3 Assessor's Office.
4 REX PRAY: Mr. Richey is registered. He's on
5 the tax bill. He never got one.
6 JOE RICHEY: I got one now. I never heard a
7 thing or nothing.
8 REX PRAY: You made a comment that at 450 CFS,
9 it would be unsafe for a vehicle to cross the stream.
10 What is going to happen at 18,000? How will we access
11 our property that has two stream crossings?
12 I am sorry. I am just a little appalled at
13 this whole event.
14 And my name is Rex Pray, P-R-A-Y, and I will
15 calm down and let Joe take over.
16 MR. HUNTLEY: Can I just interject here.
17 REX PRAY: Absolutely.
18 GINO YOUNG: I am with the Department of Water
19 Resources and Operations for Pyramid Lake. And we have
20 released that in some of those last few years you are
21 talking. In the last 25 years we have released how many
22 times total?
23 REX PRAY: 18,000 CFS.
24 GINO YOUNG: The maximum we can get out of
25 that. We have diverted flow.

1 REX PRAY: I would like to understand, then,
2 the discrepancy between the stream gauges put on there
3 by USGS that have never reached anything close to
4 18,000 CFS.
5 GINO YOUNG: I think in February we released
6 15,000.
7 MS. WALKER: I am not a hydrologist. So the
8 questions you are asking are good and fine. I just
9 can't respond.
10 REX PRAY: I appreciate everyone joining in.
11 That's fine and I appreciate it.
12 GINO YOUNG: My name is Gino Young, Department
13 of Water Resources.
14 MS. WALKER: There is also attenuation that
15 happens going down the creek. So what is released at
16 18,000 CFS at the dam is not actually what occurs
17 eighteen miles down.
18 REX PRAY: There is actually more because there
19 is numerous small feeders feeding and there is numerous
20 springs in the creek.
21 Can anyone here tell me what kind of quantity
22 of bullfrogs are up there in the stream.
23 MR. HUNTLEY: Actually -- my name is Chris
24 Huntley -- especially in Upper Piru -- in Middle Piru
25 Creek below the dam, we have done numerous surveys in

34

1 will not have a thousand volunteers out there with
2 spears to spear your bullfrogs. And if that does not
3 affect them, I will be very surprised.
4 MR. HUNTLEY: Eradication of bullfrogs is a
5 very effective way of trying to eliminate them, but as
6 far as ensuring the population of animals, it's just one
7 of the things. Bullfrogs isn't the main concern.
8 The key thing affecting the Arroyo toad is the
9 flow regulation and the way the flow goes. That's what
10 affects that endangered species. The increase in exotic
11 predators, the increase in the flow velocity of water,
12 and the increase in the vegetation -- not nonnative
13 vegetation by itself, but the cattails and the other
14 things, that effectively eliminates habitat use by that
15 animal. So there is a multiple --
16 REX PRAY: Where does this toad habitate?
17 MR. HUNTLEY: Actually, by your property, there
18 are a number of Arroyo toads. In fact, Nancy Sanburn,
19 who isn't here today -- I went out in the field with her
20 one day and she found several egg masses just above.
21 And historically, they have bred and reproduced. She
22 identified a number of populations.
23 Just down from the barb wire fence -- you know
24 where your road crossing is -- there is a road crossing
25 that lead us up to the big mesa where your property is.

36

1 the last few months. And there are literally thousands
2 of bullfrogs below Pyramid Lake.
3 I can't speak for the area down -- do you own
4 the home out there?
5 REX PRAY: Yes.
6 MR. HUNTLEY: I have actually walked the creek
7 in that area, and that is a more swiftly running section
8 of the creek. During the time I was there during the
9 day, I didn't see bullfrogs in that area, but in the
10 upper region, I can take you out there any time. The
11 area is packed with bullfrogs.
12 JOE RICHEY: Below Pyramid, I agree there isn't
13 any question.
14 MR. HUNTLEY: I would say likely the area just
15 below Blue Point Campground is a good habitat for
16 bullfrogs, as well.
17 REX PRAY: The number of times that I have
18 camped overnight and days I have been up there, the days
19 I have hiked from 4:00 a.m. until 7:00 o'clock before I
20 even saw another human being, never heard one.
21 There are fly fishing clubs. There are at
22 least four or five fly fishing clubs that have
23 volunteered in Ventura and Santa Barbara Counties to
24 remove nonnative vegetation from streams on their own
25 time, their own efforts. And I will be stunned if you

35

1 There were actually historic breeding populations both
2 up and downstream at that location, up and below Agua
3 Blanca Creek, and there are still some populations in
4 the creek there right now, but Nancy hasn't seen some of
5 the animals for a couple of years, because the habitat
6 has been encroached.
7 So it's not solely bullfrogs. And I won't
8 argue. I haven't been out in your area enough times.
9 But as an example, Fish and Game and myself
10 have been working on below Pyramid Dam at night, and we
11 removed over 144 bullfrogs in about five days of just
12 going out and collecting. So they're just packed in
13 that stretch.
14 JOE RICHEY: My name is Joe Richey, and I have
15 a keen interest in this issue. I am going to read most
16 of this only because I tend to wander if I don't and
17 also you will all be bored and wish I had shut up.
18 For the last fifteen years, I have been
19 intimately familiar with Piru Creek in the canyon
20 between Lake Pyramid and Lake Piru.
21 THE REPORTER: Excuse me. You are reading way
22 too fast. There is no way I could possibly record what
23 you are saying at that speed.
24 JOE RICHEY: I'll give you a copy of this when
25 I'm done.

37

10

1 Fly fishing, hiking, camping, observing nature
2 in one of the most beautiful canyons in Southern
3 California. I am very cognizant of the delicate balance
4 of nature we have in this canyon, but I'm not an
5 environmental activist. I am an active
6 environmentalist.
7 The incredible advantage we have because of
8 Lake Pyramid is unparalleled. Piru Creek, with its
9 year-round releases from the lake, is Southern
10 California's most stable trout habitat.
11 Nine years ago, I purchased the Whitaker Ranch
12 and built a small cabin for recreational use. I also
13 leased the property known as Kesters Camp. My property
14 consists of about 112 acres, and I lease the property
15 next to me to Kesters Camp, which is 160 acres, and also
16 an 80-acre section on top of the mountain known as the
17 pot holes.
18 My property is located on the EIR in page 3-56
19 and 3-58 of the maps, and it is labeled at Whitaker
20 Ranch site.
21 As you can see from your proposal, the proposed
22 project falls within better than 20 percent of our
23 property. I was never notified of the proposal going
24 in. No agency, organization or person called or wrote
25 or tried to identify me.

38

1 I have seen lots of folks in there, but usually
2 they were candor people, Forest Service people, United
3 Water people. I never heard of the Aspen Group or
4 anyone associated with it. You have been there, and I'm
5 there every Saturday, many times every Sunday, several
6 times a week during the week, and have seen folks, but
7 no one said zip to me.
8 I will quote a bit of what the EIR states.
9 "A pedestrian survey of the
10 proposed project was conducted in the
11 spring of 2004. The survey included
12 visual inspection of the creek
13 corridor and various small drainages
14 feeding the creek."
15 And that would be Agua Blanca and Fish Creek as
16 well as other small areas.
17 "The proposed project area was
18 surveyed from the creek bed to an
19 elevation of 1250 feet above sea
20 level at the northern end of the
21 lake," which is where we're located.
22 Again, we have a cabin leased there. It's at
23 exactly 1200 feet elevation. And my property has a
24 cabin on it at 1153 feet of elevation. But again,
25 nobody talked to me; nobody mentioned anything; nobody

39

1 left anything on the door.
2 REX PRAY: I go on a little bit further to page
3 3-84, paragraph 3.3.4, which describes the typography of
4 my property pretty clearly.
5 "No physical evidence of the
6 road from Blue Point Campground to my
7 ranch or my lease was identified
8 during the survey." That is a good
9 one.
10 As you can clearly see from the 2003 satellite
11 photograph, which I will leave with you folks, this
12 piece of property is mine. Blue Point Campground is
13 here. That road is so vivid that it can be seen from a
14 satellite. Now, if that is a road that is gone or
15 poorly maintained, I guess I am not into maintaining.
16 To enter our ranch one much cross the stream at
17 two distinct locations. The EIR goes on to state.
18 "There is the potential for
19 previously unidentified components of
20 the Whitaker Ranch located adjacent
21 to the property to be uncovered due
22 to increasing flows and erosion.
23 Additionally, the potential of
24 uncovering these resources is what
25 would be anticipated to occur under

40

1 pre-dam conditions."
2 Well, in 1969, under pre-dam conditions, it
3 washed with the house out, and it's 500 feet south of
4 where my house is now. And so I really am startled when
5 I read,
6 "Although the rate of uncovering
7 of the resources due to the increased
8 rate of erosion associated with the
9 proposed project may occur, the rate
10 change would not be considered a
11 potentially significant adverse
12 impact in itself."
13 Well, it certainly would adversely affect me. I
14 certainly beg to differ with that.
15 We constantly maintain the road and the stream
16 crossings. We have applied for and been granted a
17 Stream Bed Alteration Agreement, numbered in here, and
18 you will get it. If you want to put it in, it's
19 R5-2001-0105, with automatic extensions for ten years.
20 The high flows proposed in this project will
21 obviously destroy our road. The cost of rebuilding the
22 road after El Nino was about \$5000.
23 We can't hold anyone responsible for El Nino.
24 That's my problem. I bought a piece of ground that has
25 a stream on it. I buy that risk.

41

1 But to knowingly release that kind of flow when
2 you know what is going to happen downstream is to me
3 unconscionable.
4 The next issue I will speak briefly to are the
5 wild trout issues. And I think you will hear from other
6 folks on this one this as the trout clubs get together
7 before January 7, I hope.
8 "Under the proposed water
9 project Pyramid Dam would be operated
10 to simulate a natural flow regime
11 downstream of Pyramid Lake to the
12 extent operationally feasible and
13 consistent with safety requirements.
14 Winter high flows of up to 18,000 CFS
15 would not be attenuated unless there
16 are safety concerns, and summer
17 releases from Pyramid Dam would not
18 augmented by release of additional
19 water from the reservoir. Under the
20 proposed project, there may be summer
21 periods of no flow at Blue Point
22 Campground and approximately
23 one-third of the years."
24 One doesn't have to be a wild trout biologist
25 to know what when all the insects die, even if the water

1 middle gorge, there are large numbers of large fish,
2 fourteen-, sixteen-, seventeen-, eighteen-inch fish.
3 You catch some rainbows up there that have jutted jaws.
4 And that means they're the granddaddies. They have been
5 there forever.
6 Now, I can't argue with the fact that prior to
7 the dam being in place, those fish probably weren't
8 there. Earlier, before Piru Creek went into place, the
9 steelhead came up, they spawned, they did their thing,
10 they left, the steelhead went back downstream. Some
11 rainbow stayed. There are rainbows up in Agua Blanca;
12 there are rainbows in Fish Creek if you go up far
13 enough.
14 Even when Agua Blanca goes dry in our
15 particular area, there are still water flows up above.
16 And in fact, there are so many fish up there that the
17 fish never get much bigger than six inches.
18 To go forward with this proposal under the
19 guise of protection of the Arroyo toad is simply put, in
20 my words -- and I hope I don't offend too many folks --
21 a fraud.
22 Professor Sam Sweet from the University of
23 California at Santa Barbara, who literally is the man
24 who identified this Arroyo toad in '84 and worked to get
25 it on the endangered species in '94 -- he has said more

1 comes back in the winter and the stream comes back out
2 of the lake or down from upstream, they aren't going to
3 be there because there are no insects. The trout go
4 where there is insects.
5 You had spoken to the issue of bass. Bass are
6 an issue that we're concerned about. Total elimination
7 of bass would be to simply build a weir at around Blue
8 Point Campground or below, three feet in height. Bass
9 cannot go over a three-foot falls; trout can. Neither
10 can bluegill, sunfish or crappie. All of those exotic
11 species are going to be out of the equation.
12 The bullfrog, I don't know how to contend with.
13 I would ask for your help on that.
14 Much was written -- a substantial amount was
15 written in here about the recreation arena, but it was
16 all based on Frenchman's Flat. Everything was
17 Frenchman's Flat, the surveys and the whole nine yards.
18 I don't think anyone surveyed anywhere at our end.
19 From Blue Point up to about Ellis Apiary, for
20 those of you who will be in the area, there are
21 significant populations of rainbow trout in the six- and
22 twelve-inch range in the winter and spring months and
23 even in the summer. And then they start finding deep
24 holes and springs.
25 If you go above Ellis Apiary, up into the

1 than once -- and I have it in writing -- flows as high
2 as 90 cubic feet per second will support the
3 requirements of the Arroyo toad and the rainbow trout.
4 The problem is not the flows but the erratic changes in
5 the flows.
6 Now, I will give Pyramid Lake credit for
7 probably the last eight or nine years, ten years, have
8 really kept that flow even. It's been good. The
9 summers have been at 20 to 25 cubic feet. But in
10 earlier years, '91, for example -- and I gave the copy
11 of the flow -- annual flow regime, if you will.
12 When the flow changes from -- let's see, what
13 was it -- on May 21, '91, it was 113 cubic feet per
14 second. On May 28, it was cut to 49. From June 1
15 through July 2, the flow averaged 50 cubic feet per
16 second. Then on July 5 through July 10, it was cut to
17 55 cubic feet -- from 55 to 20.
18 This kind of change is what wipes out those egg
19 nests. They can't take it. They're either in water
20 that -- and they're going to be in slow-moving shallow
21 water. We have identified them and seen them. They are
22 going to be high and dry with that kind of stuff.
23 Now, the water temperatures, we talk a lot
24 about water temperatures being so high in the summer the
25 trout can't handle it. That isn't true. These fish are

1 as capable of survival as the Arroyo toad, if given the
2 chance. I think they can cohabitate, but I will give
3 you an example.

4 We have taken temperature readings throughout
5 the stretch of the lake. We had a temperature assessor
6 set for us -- because I couldn't get in there -- by the
7 Department of Fish and Game at the base of Pyramid Dam.
8 We know exactly what the temperature is coming out of
9 that dam.

10 That chart is also included in my package for
11 your use. And when you look at it, if you see these big
12 scratchy things there because the temperature sensors
13 were in my glove compartment, but as they start to get
14 regular is when they -- will read what we want.

15 This is the base of the dam. On August 1, it
16 was 68 degrees; on September 1, it was 73 degrees; on
17 October 1, it was 72, and just started coming down to
18 about 51 in the winter.

19 Now, the big issue is how much does it heat up
20 coming downstream. This is the temperature sensor half
21 mile above Agua Blanca Creek. On August 1 of that same
22 year, the low temperature of the morning at 6:00 a.m.
23 was 70 degrees. It's 69 degrees coming out of Pyramid;
24 it's 70 degrees at Piru Creek. At 6:00 p.m., it was
25 79 degrees, a very unhealthful temperature for trout,

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1 have copies of memos of the argument going back and
2 forth. One memo even stated that there was a \$1 million
3 issue by continuing to water the stream at 25 cubic feet
4 per second. That was in '96.

5 I think what we need to do is get the folks
6 from all of these organizations together to come to some
7 equitable arrangement rather than dewatering the stream.
8 That is definitely the picture, but if you walked the
9 entire stream -- did you go all the way up?

10 MR. HUNTLEY: I have not walked every foot of
11 the stream.

12 JOE RICHEY: And I am not trying to tell you I
13 know everything; I don't. I mean you're heads and
14 shoulders over me when it comes to biology or aquatic
15 biology, but there are so many locations on that
16 stream -- as a matter of fact, they even show in the
17 picture of my land how many areas are all sand beds, all
18 sand that the Arroyo toad loves. We know where they
19 are. The very low end of my property --

20 MR. HUNTLEY: I have walked through the creek
21 up through that narrow gorge.

22 REX PRAY: That ideally can be laden with the
23 Arroyo toad. One area that is just nothing but sand and
24 slow-moving water. They love it; we have seen them
25 there; we are very careful of them. We don't allow wild

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1 but them manage. They find undercuts, holes, deep runs,
2 springs, whatever they find, and they survive.

3 Before I ramble too far -- and I am so capable
4 of it -- I would just like to say I think that if we
5 could get a consensus from everyone -- I would like to
6 get a consensus from everyone that drying up Piru Creek
7 is not going to solve this problem. The Arroyo toad is
8 going to survive. It has for many, many years in spite
9 of us.

10 I think it's those erratic flows that is the
11 most harmful. If the flows were whatever are agreed to
12 by all parties, reasonable parties -- I have invited
13 CalTrout to get into this issue. I think they need to
14 look at it. I think that there are already statutes on
15 the State of California's books that require a stream
16 not dewatered.

17 Now, I don't have that law in my hand. And,
18 again, you folks represent the State, most of you. So
19 the state is the state. You can adjust those laws as
20 you need.

21 But I truly believe that this issue is more
22 about the organizations that can't seem to work
23 together. The administration of Piru Creek and Pyramid
24 are kind of always as odds. I don't know what goes on;
25 I don't work there. I just hear bits and pieces. I

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1 traffic or people going offroad. I give friends permits
2 to come in, but no offroad travel, no parking in Blue
3 Point. I can't go a lot further than I have gone, but I
4 just plead our case that devastating this canyon would
5 be probably the most unreasonable thing that can be
6 done.

7 I am here to tell you I am -- I want the Arroyo
8 toad there, without any question. I believe the weir
9 that could be placed below our property would stop some
10 of these exotic species, where we have even volunteered
11 to build those, but we never get a response from anyone.
12 No one seems to want to take up that issue.

13 And I know your concern would be that is nice
14 now but what happens ten years from now. Those are
15 things we have to work out.

16 I will shut up and who should I give this copy
17 to.

18 We have more than one copy if you would like.

19 MS. WALKER: Thank you very much.

20 Any other comments?

21 MR. PETERSON: I will try to address some of
22 his comments. I guess maybe I would like to say a few
23 things.

24 MS. WALKER: A lot of his comments regarding
25 the stream flow, we will address them for you.

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1 Certainly, as referenced before, I am not a hydrologist,
2 so I cannot speak for --
3 REX PRAY: I would much rather come here as a
4 friend, because a lot more can be done if we can speak
5 to each other. I am worried, selfishly -- I am worried
6 I won't have access to my property in the winter. If in
7 fact we have a prolonged period -- we won't cross the
8 stream if it's over 100 cubic feet per second. And
9 there are a few times with I got across the stream with
10 rocks in the bed of my truck so I could back out of
11 there.
12 So I was actually a little rude to someone who
13 said you released large quantities of water. We're in
14 there every week and we can almost always get in except
15 after a storm.
16 GINO YOUNG: That is the only time we are
17 talking about. Just two or three days and it's down to
18 60, 40, 20. I apologize. I thought you meant you
19 released up to 18,000. If we have to to save the
20 integrity of the dam and release the water, we just have
21 to do it and that's the only time we do it.
22 REX PRAY: There is no problem with that. Like
23 I said, El Nino, we were hoping it wouldn't take the dam
24 out. So I understand that, but my concern is planned
25 release of water that is going to cost me a whole lot of

1 REX PRAY: Exactly how would the 25 affect the
2 toad?
3 GINO YOUNG: Because it promotes so much
4 growth.
5 MR. HUNTLEY: Chris Huntley.
6 There's a couple of things that have gone on,
7 and you have touched upon a couple of very accurate
8 statements. The wide fluctuation of flows, releases
9 from the dam, is one of the major contributors to
10 harming this animal.
11 And what happens when there is this release of
12 water when it's not -- it's not the rainy season is
13 during a period when the toads are just metamorphosing.
14 This is not on par with what natural stream flow would
15 be, and then it washes these animals the juvenile
16 animals down.
17 What DWR is proposing is if you have a storm
18 and water comes in, water goes out. This is consistent
19 with most of the Arroyo toads. They leave the stream
20 during this period of time during the high periods of
21 flow.
22 What releasing 25 CFS has done over the last
23 few years, it has -- as you guys have probably seen
24 this -- the biologists from the forest service and
25 experts who work in that field indicated to me that

1 money to put the road back in.
2 GINO YOUNG: Let me assure you -- Gino Young,
3 that -- our releases are planned, that we don't just
4 release them. Because this water is valuable to us. So
5 we don't just release it. We release it because we must
6 for the downstream users, which is United, and that's
7 their water. And we try to maintain a -- for years we
8 tried to maintain this fishery, and this fishery was
9 done under the FERC license that Dan was talking about,
10 Federal Energy and Regulatory Commission, where we had
11 to make changes every day according to temperature
12 changes every day, if it was either 10, 15, 20, 25 CFS,
13 depending on how high it was every day.
14 REX PRAY: Those changes are good ones.
15 GINO YOUNG: That's what they are telling us
16 was not good for the Arroyo toad and we have to quit
17 that. So then when we went to the 25 CFS release, and
18 that has been perfect because that was good for the
19 fishing people and good for United. It seemed like a
20 good way to go. But then Fish and Wildlife Service told
21 us that we were taking the toad by doing this and then
22 inducing these predators.
23 REX PRAY: As a --
24 GINO YOUNG: We're, like you, just trying to
25 get along with everybody.

1 these areas that were once cobbling beds and little side
2 back waters and things, are now slowly filling up with
3 vegetation because the summer water, having this 25 CFS
4 going through there all summer long, provides hydrology
5 that allows these plants to just survive, when normally,
6 they wouldn't under a natural stream flow there, which
7 means having enough winter storms to scour this
8 vegetation free. It is just like watering your lawn.
9 With more water, the plants continue to grow.
10 And what this does for the toad, this removes
11 habitat this toad has to have. It cannot breed in a
12 25 CFS flowing. That is too deep; the water is too
13 fast; and they can't -- their egg masses don't survive
14 as the juvenile toads can't survive.
15 I can't speak for Sam Sweet. You mentioned a
16 number of 90 CFS.
17 REX PRAY: Up to 90.
18 MR. HUNTLEY: Fluctuation is a big problem.
19 Arroyo toads are founds on creek that have hundreds of
20 CFS flows, thousands even, at different times, but they
21 still provide the kind of back water little eddy areas
22 that these animals need to live, because they cannot
23 successfully reproduce in a contained, channelized
24 stream.
25 But consistent summer flows just allows

1 vegetation not normally to be there at that density to
2 show up. Maybe if they released winter storms and
3 allowed them to scour through and provide these little
4 side channels -- you live next to that big alluvial fan
5 where you can see that there is historic channels all
6 through there.
7 I walked up the creek and you could see where
8 20 years ago that creek was more toward your property
9 and it's moved over. And you can see the vegetation.
10 And now it's all growing in with weeds.
11 Under a more natural system, that channel would
12 meander back and forth over time, and you would have
13 rows of trees and then scoured out areas, where now it
14 is just kind of a monoculture of plants.
15 REX PRAY: Let me ask a question. Ideally --
16 and this is going to be speculation on your part --
17 ideally, how many Arroyo toads would you consider a
18 healthy population in that fifteen-mile stretch?
19 MR. HUNTLEY: I don't know. I am not an expert
20 to say on the population dynamics. So anything I could
21 tell you would be speculation.
22 REX PRAY: What I was getting at, there are so
23 many areas they do that would be perfect for them.
24 MR. HUNTLEY: While there are a number of
25 spots -- you indicated there is some sandy and gravelly

1 and I would be concerned about having my property
2 impacted, as well.
3 REX PRAY: Again, Rex Pray. In the 25 years I
4 have been hunting up there, I have come around a corner
5 knowing that there is a deep hole there, and that deep
6 hole, six feet deep, is now four feet high with sand.
7 Somewhere upstream or downstream is a new hole. And
8 this is historically under the exact conditions that we
9 are talking about today.
10 Now, what I am hearing is you are going to wipe
11 out fourteen miles of stream for a half a mile --
12 MR. HUNTLEY: No, sir.
13 REX PRAY: The bullfrog is confined to
14 Frenchman's Flat which is no more than, okay, two miles.
15 And now we are going to wipe out thirteen miles of
16 additional stream. We're going to wipe out fishing;
17 we're going to wipe out anything that the two of us like
18 to do, that our grandkids are going to be doing, all the
19 reasons we are up there.
20 You will block our access part of the year,
21 which natural flows have done. We can live with that.
22 We can live with \$5000 to put a road back in. Not if --
23 and I cannot tell you this for a fact -- my guess is
24 part of the permit for that dam was also flood control.
25 I don't know that for a fact.

1 areas -- and there are some toads up there, but when I
2 walked up with Nancy Sanburn -- she is a Forest Service
3 person -- she showed me where the animals had bred a few
4 years ago and then walked to sites and now vegetation
5 has encroached on it, and these animals can't breed
6 there.
7 So they are now breeding in areas that aren't
8 conducive to high reproductive success. They are
9 breeding up along that road near the oak trees, farther
10 north. There was egg masses identified in that
11 location.
12 And the upper pool, we looked at that very
13 narrow channel. There's a big, huge sandy area. A lot
14 of the bank still has sand, but the flow is too high,
15 and then the side channels that used to be there are now
16 packed tight with cattails. So that's where these
17 animals would live.
18 It's tough for these animals because they are
19 habitat specialists. And while the populations of the
20 animals still exist out there, they're declining. And a
21 couple of years before, surveys that were conducted up
22 there found no reproducing Arroyo toads. So this last
23 year, she actually found some that were reproducing.
24 I understand your concerns. You have a piece
25 of property up there and you get recreational enjoyment,

1 No? Okay.
2 MR. HUNTLEY: As far as the sediment and the
3 moving sediments, you do get a certain level of
4 sediment, but your storms are attenuating. What is
5 happening with the sediment and where you are getting it
6 is this continuous flow, this 25 CFS. What it's doing
7 is degrading the sediment from the creek upstream and
8 slowly moving it downstream.
9 And eventually, Piru Creek would go bone dry.
10 It would rob the sediment from upstream and you would
11 end up with a cobble-dominated creek.
12 You have lots of sediments coming from Agua
13 Blanca, but allowing the storms to actually move things
14 around is what will help reestablish the potholes and
15 things like that. But as far as losing the water in the
16 creek, there may be years if it goes through a natural
17 flow that you would have 3 CFS or whatever is trickling
18 down from Agua Blanca. And sometimes that goes dry.
19 So there is potential -- and we have seen it on
20 the stream gauge -- that right above Blue Point
21 Campground that creek could run dry for at least a
22 month-period of time I think during September, but that
23 does not happen very frequently.
24 As far as trout, the reason in the analysis we
25 said it would probably be detrimental to the trout

1 fishing is based on the fact that while populations of
2 some trout will survive in deep potholes, as they do in
3 the upper areas -- stocking the creek with trout in
4 those upper areas where people are -- most recreational
5 users are -- that area will not likely support trout if
6 the creek runs at 3 CFS. There is a few pools at shaded
7 overhangs and some might survive, but we say it's a
8 significant impact because we don't think it would
9 provide -- support the populations of all of those
10 stocked fish.

11 Interestingly enough, most of the stocked fish
12 in that upper region is fished out. We do get good
13 reports of people who take hikes a couple of miles
14 downstream, and there is beautiful pits down there and
15 people are pulling out and most of them are releasing
16 trout.

17 JOE RICHEY: Joe Richey. We have watched those
18 spawn every summer. Every May I watch trout in Piru
19 Creek spawn, dozens and dozens.

20 MR. HUNTLEY: They are not native, but what
21 they are doing is naturally reproducing. They're from
22 hatcheries.

23 REX PRAY: They come from the lake down or lake
24 up. I don't argue with that. I didn't say "native" but
25 the wild trout -- I'm sorry.

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1 As far as eliminating bullfrogs, by disrupting
2 the flow pattern or going to more natural systems, most
3 natural creeks that at least can partially dry up in a
4 portion of the year or the flow gets reduced, it's
5 tougher for an animal that needs a constant deep water
6 source to survive. It's harder for them to do that.
7 And the native species tend to thrive in that because
8 they are adapted to that kind of changing creek
9 environment.

10 Bullfrogs love that constant water. And,
11 again, I can't speak for bullfrog populations in your
12 area since I have not surveyed at night and identified
13 whether or not huge numbers of them are down in that
14 region. We know there are Arroyo toads there, but I
15 don't know. And I don't want to suggest any population
16 figures.

17 I do know upstream and I know down below
18 Frenchman's Flat in the gorge there are still large
19 numbers of bullfrogs because I have walked those areas.
20 So what will happen if natural flows are simulated, one
21 large storm will wash bullfrogs downstream just the way
22 DWR releases water now.

23 One thing to remember is under this plan DWR is
24 going to release in flow to match out flow. But they
25 don't fully attenuate winter storms now. They release

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1 MR. HUNTLEY: They do. In fact, there's a
2 small population of naturally producing trout above the
3 concrete weir upstream in Frenchman's Lake.

4 REX PRAY: Did Aspen do anything -- and I have
5 heard nothing about the eradication of the bullfrog.
6 You are going to wash the bullfrogs into Lake Piru? I
7 can't imagine anything other than the fact that the
8 bullfrogs are just simply going to get washed into Lake
9 Piru, establish a nice population there, swim up to our
10 property, start munching on Arroyo toads.

11 MR. HUNTLEY: I think the take on this is we
12 mentioned exotic predators as a potential impact on
13 Arroyo toad and other native wildlife living in Piru
14 Creek, because it's a recognized fact that whenever you
15 get large populations of this animal, it exterminates
16 most native species.

17 Now, we're not saying that the presence of the
18 bullfrog is the sole reason for the Arroyo toads not
19 occurring or being impacted, but this is one mitigating
20 factor.

21 The other is the consistent of flow regime that
22 has led to this encroachment of vegetation on their
23 habitat. So it's a combination of factors.

24 Please, remember that it's more than one thing,
25 not just the bullfrog.

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1 large amounts of water. And in fact, a fairly large
2 amount of water went down just a few weeks ago because I
3 was out there looking at a lot of bullfrogs that been
4 swept downstream. They don't like the high water.

5 Increasing the flows to natural levels will
6 help wash animals downstream, and it washes larvae
7 downstream, as well. Larvae of bullfrogs are already
8 likely inhabitants of your area.

9 I know you haven't identified them or seen
10 them, and I take your word for it. You guys are there
11 every day. And I would like to go out there one night
12 and see what is going on in that region, but we have not
13 had a chance to physically survey every stretch of the
14 creek.

15 But bullfrogs will be washed down. And once
16 they get to the lake, they are probably going to be
17 preyed upon by bass.

18 Bass are also getting into Piru Creek from the
19 top end. And I don't know how they are coming through
20 the dam or whatever, but anglers have continually
21 reporting catching them. In fact, we have coy, catfish
22 and other things up in those stretches just below the
23 dam.

24 REX PRAY: There are catfish in the creek.

25 MR. PETERSON: I want to address one of

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1 Mr. Richey's concerns. This is Dan Peterson with Water
2 Resources.
3 We have had a lot of meetings with the Fish and
4 Wildlife Service, Fish and Game, United Forest Service
5 on this very issue. And as a matter of fact, it's why
6 ten years ago we went to that fluctuating stream
7 release. And at that time, we thought we had --
8 everyone was satisfied.
9 And over the last couple of years, because
10 something that Chris said the changed the stream ecology
11 is that the Fish and Wildlife Service just said there
12 isn't any way. So we really are kind of caught between
13 a trout and Arroyo toad on this end, but there have been
14 a lot of meetings, many, many meetings, and as recent as
15 last year, that try and -- actually, at the time, to try
16 to persuade the Fish and Wildlife Service otherwise.
17 It could be a jail term for some of us if we
18 don't get it changed. That's it.
19 MS. WALKER: Anybody else?
20 MS. SU: Teresa Su, U.S. Forest Service. My
21 question is kind of scoping and how broad did you scope
22 out, and have you gotten any comments from recreation
23 folks, because I know that the Frenchman's Flat area is
24 heavily recreated and it will impact that.
25 We definitely support the project, but I am

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1 just more curious as to have you received any comments
2 from the recreating folks --
3 MS. WALKER: Not yet.
4 MS. SU: -- in terms of negative impacts.
5 MS. WALKER: No. Actually, when we did the
6 scoping the scoping meeting, we were expecting a large
7 community of anglers to show up and only one person from
8 the public showed up at the scoping meeting. It was a
9 representative from Sierra Club, I believe.
10 To date on the DEIR, we have only received two
11 letters from agencies. We have not received any public
12 or public interest group comments on date.
13 MS. SU: Do you know, how has your scoping
14 gone? Have you been able to scope out some of the other
15 groups that are not land owners?
16 MS. WALKER: Absolutely. Our distribution list
17 has about 120 parties on it and it does include some of
18 the public interest groups that are specific to
19 angling. It was notified, this meeting, in both the
20 Ventura County Star and L.A. Times for four weeks
21 consecutively. And we also posted it at Frenchman's
22 Flat, I think, the day after Thanksgiving. And we also
23 sent letters to all of the local bait shops and angling
24 shops and requested they post the notice in their shops,
25 if they would, so they would be advised.

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1 We have done just about everything we can.
2 MS. SU: Just more of a concern about what
3 would happen once it's implemented, because I know
4 sometimes the public doesn't show up at these things,
5 but I think from the Forest Service standpoint,
6 especially with recreation, it may fall on us to some
7 degree to react to that.
8 MS. WALKER: Absolutely.
9 REX PRAY: May I ask you a question. Are you
10 speaking on behalf of the U.S. Department of Forestry or
11 are you speaking on behalf of yourself?
12 MS. SU: Both.
13 REX PRAY: You have the authority to say that
14 the U.S. Forest Service is backing this plan?
15 GINO YOUNG: The Forest Service has been
16 involved in this. And, yeah, our standpoint is because
17 we have to work with Fish and Wildlife Service, as well,
18 and this is really what is triggering it is Fish and
19 Wildlife Service.
20 REX PRAY: One more question. How can I get a
21 copy of your distribution list?
22 MS. WALKER: If you give me your address.
23 JOE RICHEY: You can send it to Joe Richey or
24 Rex Pray. Your sign-in sign sheet has it.
25 We would really appreciate that because we are

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1 very careful about knowing -- trying to know what is
2 going on. And it's incredible that we never heard
3 anything; never saw anything.
4 MS. WALKER: This is the distribution list.
5 THE REPORTER: It's in the EIR.
6 MS. WALKER: Yes, it is.
7 THE REPORTER: Then we have it.
8 REX PRAY: Thank you.
9 MS. WALKER: Thank you.
10 MR. HUNTLEY: Thank you for your comments.
11 MS. WALKER: That's it. We will close the
12 meeting. Thank you all again for attending. Drive
13 safely home and have a happy holiday.
14 (The proceedings were concluded at
15 7:35 p.m.)
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1 REPORTER'S CERTIFICATION OF CERTIFIED COPY

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I, DARYL BAUCUM, CSR No. 10356, a
Certified Shorthand Reporter for the County of
Los Angeles, State of California, do hereby certify
that the foregoing pages constitute a true and
correct copy of the transcript of proceedings, taken
on December 16, 2004.

I further certify that I am neither counsel
for nor related to any party to said action, nor in
any way interested in the outcome thereof.

IN WITNESS WHEREOF, I hereunto subscribe my
name this 28th day of December, 2004.

Certified Shorthand Reporter in and for the
County of Los Angeles, State of California